

Bill No. SB 1080

Barcode 165446

586-1687A-06

Proposed Committee Substitute by the Committee on Children and Families

1 A bill to be entitled

2 An act relating to child protective services;

3 amending s. 39.01, F.S.; revising definitions

4 relating to child protective services; amending

5 s. 39.013, F.S.; removing provisions relating

6 to continuances; creating s. 39.0136, F.S.;

7 providing for time limitations in child

8 protective cases; providing exceptions;

9 creating s. 39.0137; providing that state laws

10 do not supersede certain federal laws;

11 requiring the Department of Children and Family

12 Services to adopt rules; creating s. 39.0138,

13 F.S.; authorizing the department to conduct

14 criminal background record checks of persons

15 being considered as prospective foster parents;

16 providing for exemptions from disqualifications

17 to care for a dependent child; providing that a

18 court may review the granting or denial of an

19 exemption from disqualification to care for a

20 dependent child; amending s. 39.201, F.S.;

21 requiring that any person who knows or suspects

22 that a child is in need of supervision and care

23 and has no parent, legal custodian, or

24 responsible adult relative immediately known

25 and available to provide supervision and care,

26 must report this information to the central

27 abuse hotline of the Department of Children and

28 Family Services; amending s. 39.301, F.S.;

29 providing that the department may rely upon a

30 previous report to indicate that child abuse

31 has occurred; redefining the term "criminal

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1 conduct" to include a child who is known or
2 suspected to be a victim of human trafficking;
3 requiring each child protective investigator to
4 inform the person who is the subject of a child
5 protective investigation that he or she has a
6 duty to report any change in the residence or
7 location of the child to the investigator and
8 that the duty to report continues until the
9 investigation is closed; providing that if the
10 child has moved to a different residence or
11 location, a report may be filed with a law
12 enforcement agency under certain circumstances;
13 amending 39.303, F.S.; conforming provisions to
14 changes made by the act; amending s. 39.402,
15 F.S.; requiring that a shelter hearing order
16 contain specified information relating to the
17 availability of services to prevent removal
18 from the home; amending s. 39.507, F.S.;
19 requiring the court to inquire of the parents
20 whether the parents have relatives who might be
21 considered as a placement for the child;
22 directs the court to advise the parents that,
23 if the child is not returned to their custody
24 within 12 months, their parental rights may be
25 terminated; amending s. 39.5085, F.S.;
26 conforming provisions to changes made by the
27 act; correcting cross-references; amending s.
28 39.522, F.S.; requiring the court to consider
29 the continuity of the child's placement in the
30 same out-of-home residence as a factor when
31 determining the best interests of the child in

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1 a postdisposition proceeding to modify custody;
2 creating s. 39.6011, F.S.; providing procedures
3 for drafting and implementing a case plan;
4 requiring the department to prepare a case plan
5 for each child receiving services from the
6 department; requiring certain face-to-face
7 meetings; creating s. 39.6012, F.S.; providing
8 for case plan tasks and services; providing the
9 content for the case plan; creating s. 39.6013,
10 F.S.; providing for amendments to a case plan;
11 describing the circumstance under which a case
12 plan may be modified; amending s. 39.603, F.S.;
13 requiring that case plans and amendments be
14 approved by the court; amending s. 39.621,
15 F.S.; declaring that time is of the essence for
16 a child in the dependency system; providing
17 prehearing procedures; providing for permanency
18 hearings; directing the court to make certain
19 findings at the permanency hearing; creating s.
20 39.6221, F.S.; providing for the permanent
21 guardianship for a dependent child; authorizing
22 the court to consider a permanent guardian as a
23 long-term option for a dependent child;
24 requiring a written order; providing for the
25 contents of the permanent guardianship order;
26 creating s. 39.6231, F.S.; providing for
27 placement with a fit and willing relative;
28 requiring the court to specify the reasons to
29 place a child with a relative; providing for
30 the department to supervise the placement for a
31 specified time period; creating s. 39.6241,

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1 F.S.; authorizing the court to place a child in
2 another planned permanent living arrangement
3 under certain circumstances; amending s.
4 39.701, F.S.; requiring that a child's current
5 health and education records be included in the
6 documentation for the judicial review report;
7 requiring the court to conduct a judicial
8 review 6 months after the child was placed in
9 shelter care; amending s. 39.703, F.S.;
10 providing when the department may file a
11 petition for termination of parental rights;
12 prohibiting the department from filing a
13 petition under certain specified circumstances;
14 amending s. 39.806, F.S.; authorizing a
15 material breach of the case plan as a ground to
16 terminate parental rights; requiring that the
17 department show, and the court find, the
18 material breach by clear and convincing
19 evidence; amending s. 39.810, F.S.; providing
20 certain factors for the court to consider for
21 the best interest of the child; amending s.
22 39.811, F.S.; conforming provisions to changes
23 made by the act; amending ss. 39.0015, 39.205,
24 39.302, 39.828, 63.092, and 419.001, F.S.;
25 correcting cross-references; reenacting s.
26 39.802(5), F.S., relating to the filing of a
27 petition to terminate parental rights, to
28 incorporate the amendments made to s. 39.806,
29 F.S., in a reference thereto; repealing ss.
30 39.601, 39.622, 39.623, 39.624, and 435.045,
31 F.S., relating to case plan requirements,

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1 long-term custody of a dependent child,
2 long-term licensed custody of a dependent
3 child, independent living, and background
4 screening of certain persons before a dependent
5 child is placed in their home; providing an
6 effective date.

7
8 Be It Enacted by the Legislature of the State of Florida:

9
10 Section 1. Section 39.01, Florida Statutes, is amended
11 to read:

12 39.01 Definitions.--When used in this chapter, unless
13 the context otherwise requires:

14 (1) "Abandoned" means a situation in which the parent
15 or legal custodian of a child or, in the absence of a parent
16 or legal custodian, the caregiver responsible for the child's
17 welfare, while being able, makes no provision for the child's
18 support and makes no effort to communicate with the child,
19 which situation is sufficient to evince a willful rejection of
20 parental obligations. If the efforts of the ~~such~~ parent or
21 legal custodian, or caregiver primarily responsible for the
22 child's welfare, to support and communicate with the child
23 are, in the opinion of the court, only marginal efforts that
24 do not evince a settled purpose to assume all parental duties,
25 the court may declare the child to be abandoned. The term
26 "abandoned" does not include an abandoned newborn infant as
27 described in s. 383.50, a "child in need of services" as
28 defined in chapter 984, or a "family in need of services" as
29 defined in chapter 984. The incarceration of a parent, legal
30 custodian, or caregiver responsible for a child's welfare may
31 support a finding of abandonment.

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1 (2) "Abuse" means any willful act or threatened act
2 that results in any physical, mental, or sexual injury or harm
3 that causes or is likely to cause the child's physical,
4 mental, or emotional health to be significantly impaired.

5 Abuse of a child includes acts or omissions. Corporal
6 discipline of a child by a parent or legal custodian for
7 disciplinary purposes does not in itself constitute abuse when
8 it does not result in harm to the child.

9 (3) "Addictions receiving facility" means a substance
10 abuse service provider as defined in chapter 397.

11 (4) "Adjudicatory hearing" means a hearing for the
12 court to determine whether or not the facts support the
13 allegations stated in the petition in dependency cases or in
14 termination of parental rights cases.

15 (5) "Adult" means any natural person other than a
16 child.

17 (6) "Adoption" means the act of creating the legal
18 relationship between parent and child where it did not exist,
19 thereby declaring the child to be legally the child of the
20 adoptive parents and their heir at law, and entitled to all
21 the rights and privileges and subject to all the obligations
22 of a child born to the ~~such~~ adoptive parents in lawful
23 wedlock.

24 (7) "Alleged juvenile sexual offender" means:

25 (a) A child 12 years of age or younger who is alleged
26 to have committed a violation of chapter 794, chapter 796,
27 chapter 800, s. 827.071, or s. 847.0133; or

28 (b) A child who is alleged to have committed any
29 violation of law or delinquent act involving juvenile sexual
30 abuse. "Juvenile sexual abuse" means any sexual behavior which
31 occurs without consent, without equality, or as a result of

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1 coercion. For purposes of this paragraph, the following
2 definitions apply:

3 1. "Coercion" means the exploitation of authority or
4 the use of bribes, threats of force, or intimidation to gain
5 cooperation or compliance.

6 2. "Equality" means two participants operating with
7 the same level of power in a relationship, neither being
8 controlled nor coerced by the other.

9 3. "Consent" means an agreement, including all of the
10 following:

11 a. Understanding what is proposed based on age,
12 maturity, developmental level, functioning, and experience.

13 b. Knowledge of societal standards for what is being
14 proposed.

15 c. Awareness of potential consequences and
16 alternatives.

17 d. Assumption that agreement or disagreement will be
18 accepted equally.

19 e. Voluntary decision.

20 f. Mental competence.

21
22 Juvenile sexual offender behavior ranges from noncontact
23 sexual behavior such as making obscene phone calls,
24 exhibitionism, voyeurism, and the showing or taking of lewd
25 photographs to varying degrees of direct sexual contact, such
26 as frottage, fondling, digital penetration, rape, fellatio,
27 sodomy, and various other sexually aggressive acts.

28 (8) "Arbitration" means a process whereby a neutral
29 third person or panel, called an arbitrator or an arbitration
30 panel, considers the facts and arguments presented by the
31 parties and renders a decision which may be binding or

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1 nonbinding.

2 (9) "Authorized agent" or "designee" of the department
3 means an employee, volunteer, or other person or agency
4 determined by the state to be eligible for state-funded risk
5 management coverage, which ~~that~~ is assigned or designated by
6 the department to perform duties or exercise powers under
7 ~~pursuant to~~ this chapter.

8 (10) "Caregiver" means the parent, legal custodian,
9 permanent guardian, adult household member, or other person
10 responsible for a child's welfare as defined in subsection
11 ~~(46)~~ ~~(47)~~.

12 (11) "Case plan" ~~or "plan"~~ means a document, as
13 described in s. 39.6011 ~~s. 39.601~~, prepared by the department
14 with input from all parties. The case plan follows the child
15 from the provision of voluntary services through any
16 dependency, foster care, or termination of parental rights
17 proceeding or related activity or process.

18 (12) "Child" or "youth" means any unmarried person
19 under the age of 18 years who has not been emancipated by
20 order of the court.

21 (13) "Child protection team" means a team of
22 professionals established by the Department of Health to
23 receive referrals from the protective investigators and
24 protective supervision staff of the department and to provide
25 specialized and supportive services to the program in
26 processing child abuse, abandonment, or neglect cases. A child
27 protection team shall provide consultation to other programs
28 of the department and other persons regarding child abuse,
29 abandonment, or neglect cases.

30 (14) "Child who is found to be dependent" means a
31 child who, pursuant to this chapter, is found by the court:

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(a) To have been abandoned, abused, or neglected by the child's parent or parents or legal custodians;

(b) To have been surrendered to the department, the former Department of Health and Rehabilitative Services, or a licensed child-placing agency for purpose of adoption;

(c) To have been voluntarily placed with a licensed child-caring agency, a licensed child-placing agency, an adult relative, the department, or the former Department of Health and Rehabilitative Services, after which placement, under the requirements of this chapter, a case plan has expired and the parent or parents or legal custodians have failed to substantially comply with the requirements of the plan;

(d) To have been voluntarily placed with a licensed child-placing agency for the purposes of subsequent adoption, and a parent or parents have signed a consent pursuant to the Florida Rules of Juvenile Procedure;

(e) To have no parent or legal custodians capable of providing supervision and care; or

(f) To be at substantial risk of imminent abuse, abandonment, or neglect by the parent or parents or legal custodians.

(15) "Child support" means a court-ordered obligation, enforced under chapter 61 and ss. 409.2551-409.2597, for monetary support for the care, maintenance, training, and education of a child.

(16) "Circuit" means any of the 20 judicial circuits as set forth in s. 26.021.

(17) "Comprehensive assessment" or "assessment" means the gathering of information for the evaluation of a child's and caregiver's physical, psychiatric, psychological or mental health, educational, vocational, and social condition and

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1 family environment as they relate to the child's and
2 caregiver's need for rehabilitative and treatment services,
3 including substance abuse treatment services, mental health
4 services, developmental services, literacy services, medical
5 services, family services, and other specialized services, as
6 appropriate.

7 (18) "Concurrent planning" means establishing a
8 permanency goal in a case plan that uses reasonable efforts to
9 reunify the child with the parent, while at the same time
10 establishing another goal that must be one of the following
11 options:

12 (a) Adoption when a petition for termination of
13 parental rights has been filed or will be filed;

14 (b) Permanent guardianship of a dependent child under
15 s. 39.6221;

16 (c) Permanent placement with a fit and willing
17 relative under s. 39.6231; or

18 (d) Placement in another planned permanent living
19 arrangement under s. 39.6241.

20 (19)(18) "Court," unless otherwise expressly stated,
21 means the circuit court assigned to exercise jurisdiction
22 under this chapter.

23 (20)(19) "Department" means the Department of Children
24 and Family Services.

25 (21)(20) "Diligent efforts by a parent" means a course
26 of conduct which results in a reduction in risk to the child
27 in the child's home that would allow the child to be safely
28 placed permanently back in the home as set forth in the case
29 plan.

30 (22)(21) "Diligent efforts of social service agency"
31 means reasonable efforts to provide social services or

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reunification services made by any social service agency that is a party to a case plan.

~~(23)~~~~(22)~~ "Diligent search" means the efforts of a social service agency to locate a parent or prospective parent whose identity or location is unknown, initiated as soon as the social service agency is made aware of the existence of such parent, with the search progress reported at each court hearing until the parent is either identified and located or the court excuses further search.

~~(24)~~~~(23)~~ "Disposition hearing" means a hearing in which the court determines the most appropriate protections, services, and placement for the child in dependency cases.

~~(25)~~~~(24)~~ "District" means any one of the 15 service districts of the department established pursuant to s. 20.19.

~~(26)~~~~(25)~~ "District administrator" means the chief operating officer of each service district of the department as defined in s. 20.19(5) and, where appropriate, includes any district administrator whose service district falls within the boundaries of a judicial circuit.

~~(27)~~~~(26)~~ "Expedited termination of parental rights" means proceedings wherein a case plan with the goal of reunification is not being offered.

~~(28)~~~~(27)~~ "False report" means a report of abuse, neglect, or abandonment of a child to the central abuse hotline, which report is maliciously made for the purpose of:

(a) Harassing, embarrassing, or harming another person;

(b) Personal financial gain for the reporting person;

(c) Acquiring custody of a child; or

(d) Personal benefit for the reporting person in any other private dispute involving a child.

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The term "false report" does not include a report of abuse, neglect, or abandonment of a child made in good faith to the central abuse hotline.

~~(29)(28)~~ "Family" means a collective body of persons, consisting of a child and a parent, legal custodian, or adult relative, in which:

(a) The persons reside in the same house or living unit; or

(b) The parent, legal custodian, or adult relative has a legal responsibility by blood, marriage, or court order to support or care for the child.

(30) "Family team conference" means a process for family-focused intervention facilitated by professional staff which is designed to develop a plan for the care, safety, and well-being of a child and the child's family.

~~(31)(29)~~ "Foster care" means care provided a child in a foster family or boarding home, group home, agency boarding home, child care institution, or any combination thereof.

~~(32)(30)~~ "Harm" to a child's health or welfare can occur when any person:

(a) Inflicts or allows to be inflicted upon the child physical, mental, or emotional injury. In determining whether harm has occurred, the following factors must be considered in evaluating any physical, mental, or emotional injury to a child: the age of the child; any prior history of injuries to the child; the location of the injury on the body of the child; the multiplicity of the injury; and the type of trauma inflicted. Such injury includes, but is not limited to:

1. Willful acts that produce the following specific injuries:

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- 1 a. Sprains, dislocations, or cartilage damage.
- 2 b. Bone or skull fractures.
- 3 c. Brain or spinal cord damage.
- 4 d. Intracranial hemorrhage or injury to other internal
- 5 organs.
- 6 e. Asphyxiation, suffocation, or drowning.
- 7 f. Injury resulting from the use of a deadly weapon.
- 8 g. Burns or scalding.
- 9 h. Cuts, lacerations, punctures, or bites.
- 10 i. Permanent or temporary disfigurement.
- 11 j. Permanent or temporary loss or impairment of a body
- 12 part or function.

13
14 As used in this subparagraph, the term "willful" refers to the
15 intent to perform an action, not to the intent to achieve a
16 result or to cause an injury.

17 2. Purposely giving a child poison, alcohol, drugs, or
18 other substances that substantially affect the child's
19 behavior, motor coordination, or judgment or that result in
20 sickness or internal injury. For the purposes of this
21 subparagraph, the term "drugs" means prescription drugs not
22 prescribed for the child or not administered as prescribed,
23 and controlled substances as outlined in Schedule I or
24 Schedule II of s. 893.03.

25 3. Leaving a child without adult supervision or
26 arrangement appropriate for the child's age or mental or
27 physical condition, so that the child is unable to care for
28 the child's own needs or another's basic needs or is unable to
29 exercise good judgment in responding to any kind of physical
30 or emotional crisis.

31 4. Inappropriate or excessively harsh disciplinary

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1 action that is likely to result in physical injury, mental
2 injury as defined in this section, or emotional injury. The
3 significance of any injury must be evaluated in light of the
4 following factors: the age of the child; any prior history of
5 injuries to the child; the location of the injury on the body
6 of the child; the multiplicity of the injury; and the type of
7 trauma inflicted. Corporal discipline may be considered
8 excessive or abusive when it results in any of the following
9 or other similar injuries:

- 10 a. Sprains, dislocations, or cartilage damage.
- 11 b. Bone or skull fractures.
- 12 c. Brain or spinal cord damage.
- 13 d. Intracranial hemorrhage or injury to other internal
14 organs.
- 15 e. Asphyxiation, suffocation, or drowning.
- 16 f. Injury resulting from the use of a deadly weapon.
- 17 g. Burns or scalding.
- 18 h. Cuts, lacerations, punctures, or bites.
- 19 i. Permanent or temporary disfigurement.
- 20 j. Permanent or temporary loss or impairment of a body
21 part or function.

- 22 k. Significant bruises or welts.

23 (b) Commits, or allows to be committed, sexual
24 battery, as defined in chapter 794, or lewd or lascivious
25 acts, as defined in chapter 800, against the child.

26 (c) Allows, encourages, or forces the sexual
27 exploitation of a child, which includes allowing, encouraging,
28 or forcing a child to:

- 29 1. Solicit for or engage in prostitution; or
- 30 2. Engage in a sexual performance, as defined by
31 chapter 827.

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1 (d) Exploits a child, or allows a child to be
2 exploited, as provided in s. 450.151.

3 (e) Abandons the child. Within the context of the
4 definition of "harm," the term "abandons the child" means that
5 the parent or legal custodian of a child or, in the absence of
6 a parent or legal custodian, the person responsible for the
7 child's welfare, while being able, makes no provision for the
8 child's support and makes no effort to communicate with the
9 child, which situation is sufficient to evince a willful
10 rejection of parental obligation. If the efforts of ~~the~~ ~~such~~
11 ~~a~~ parent or legal custodian or person primarily responsible
12 for the child's welfare to support and communicate with the
13 child are only marginal efforts that do not evince a settled
14 purpose to assume all parental duties, the child may be
15 determined to have been abandoned. The term "abandoned" does
16 not include an abandoned newborn infant as described in s.
17 383.50.

18 (f) Neglects the child. Within the context of the
19 definition of "harm," the term "neglects the child" means that
20 the parent or other person responsible for the child's welfare
21 fails to supply the child with adequate food, clothing,
22 shelter, or health care, although financially able to do so or
23 although offered financial or other means to do so. However,
24 a parent or legal custodian who, by reason of the legitimate
25 practice of religious beliefs, does not provide specified
26 medical treatment for a child may not be considered abusive or
27 neglectful for that reason alone, but such an exception does
28 not:

29 1. Eliminate the requirement that such a case be
30 reported to the department;

31 2. Prevent the department from investigating such a

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1 case; or

2 3. Preclude a court from ordering, when the health of
3 the child requires it, the provision of medical services by a
4 physician, as defined in this section, or treatment by a duly
5 accredited practitioner who relies solely on spiritual means
6 for healing in accordance with the tenets and practices of a
7 well-recognized church or religious organization.

8 (g) Exposes a child to a controlled substance or
9 alcohol. Exposure to a controlled substance or alcohol is
10 established by:

11 1. Use by the mother of a controlled substance or
12 alcohol during pregnancy when the child, at birth, is
13 demonstrably adversely affected by such usage; or

14 2. Continued chronic and severe use of a controlled
15 substance or alcohol by a parent when the child is
16 demonstrably adversely affected by such usage.

17
18 As used in this paragraph, the term "controlled substance"
19 means prescription drugs not prescribed for the parent or not
20 administered as prescribed and controlled substances as
21 outlined in Schedule I or Schedule II of s. 893.03.

22 (h) Uses mechanical devices, unreasonable restraints,
23 or extended periods of isolation to control a child.

24 (i) Engages in violent behavior that demonstrates a
25 wanton disregard for the presence of a child and could
26 reasonably result in serious injury to the child.

27 (j) Negligently fails to protect a child in his or her
28 care from inflicted physical, mental, or sexual injury caused
29 by the acts of another.

30 (k) Has allowed a child's sibling to die as a result
31 of abuse, abandonment, or neglect.

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1 (1) Makes the child unavailable for the purpose of
2 impeding or avoiding a protective investigation unless the
3 court determines that the parent, legal custodian, or
4 caregiver was fleeing from a situation involving domestic
5 violence.

6 (33)~~(31)~~ "Institutional child abuse or neglect" means
7 situations of known or suspected child abuse or neglect in
8 which the person allegedly perpetrating the child abuse or
9 neglect is an employee of a private school, public or private
10 day care center, residential home, institution, facility, or
11 agency or any other person at such institution responsible for
12 the child's care.

13 (34)~~(32)~~ "Judge" means the circuit judge exercising
14 jurisdiction pursuant to this chapter.

15 (35)~~(33)~~ "Legal custody" means a legal status created
16 by a court ~~order or letter of guardianship~~ which vests in a
17 custodian of the person or guardian, whether an agency or an
18 individual, the right to have physical custody of the child
19 and the right and duty to protect, nurture, guide ~~train~~, and
20 discipline the child and to provide him or her with food,
21 shelter, education, and ordinary medical, dental, psychiatric,
22 and psychological care. ~~The legal custodian is the person or~~
23 ~~entity in whom the legal right to custody is vested. For~~
24 ~~purposes of this chapter only, when the phrase "parent or~~
25 ~~legal custodian" is used, it refers to rights or~~
26 ~~responsibilities of the parent and, only if there is no living~~
27 ~~parent with intact parental rights, to the rights or~~
28 ~~responsibilities of the legal custodian who has assumed the~~
29 ~~role of the parent.~~

30 ~~(34) "Legal guardianship" means a judicially created~~
31 ~~relationship between the child and caregiver which is intended~~

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~~to be permanent and self-sustaining and is provided pursuant to the procedures in chapter 744.~~

~~(36)~~(35) "Licensed child-caring agency" means a person, society, association, or agency licensed by the department to care for, receive, and board children.

~~(37)~~(36) "Licensed child-placing agency" means a person, society, association, or institution licensed by the department to care for, receive, or board children and to place children in a licensed child-caring institution or a foster or adoptive home.

~~(38)~~(37) "Licensed health care professional" means a physician licensed under chapter 458, an osteopathic physician licensed under chapter 459, a nurse licensed under part I of chapter 464, a physician assistant licensed under chapter 458 or chapter 459, or a dentist licensed under chapter 466.

~~(39)~~(38) "Likely to injure oneself" means that, as evidenced by violent or other actively self-destructive behavior, it is more likely than not that within a 24-hour period the child will attempt to commit suicide or inflict serious bodily harm on himself or herself.

~~(40)~~(39) "Likely to injure others" means that it is more likely than not that within a 24-hour period the child will inflict serious and unjustified bodily harm on another person.

~~(40) "Long-term relative custodian" means an adult relative who is a party to a long-term custodial relationship created by a court order pursuant to this chapter.~~

~~(41) "Long-term custody" or "long-term custodial relationship" means the relationship that a juvenile court order creates between a child and an adult relative of the child or other legal custodian approved by the court when the~~

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1 ~~child cannot be placed in the custody of a parent and adoption~~
2 ~~is not deemed to be in the best interest of the child.~~
3 ~~Long term custody confers upon the relative or other legal~~
4 ~~custodian, other than the department, the right to physical~~
5 ~~custody of the child, a right which will not be disturbed by~~
6 ~~the court except upon request of the legal custodian or upon a~~
7 ~~showing that the best interest of the child necessitates a~~
8 ~~change of custody for the child. A relative or other legal~~
9 ~~custodian who has been designated as a long term custodian~~
10 ~~shall have all of the rights and duties of a parent,~~
11 ~~including, but not limited to, the right and duty to protect,~~
12 ~~train, and discipline the child and to provide the child with~~
13 ~~food, shelter, and education, and ordinary medical, dental,~~
14 ~~psychiatric, and psychological care, unless these rights and~~
15 ~~duties are otherwise enlarged or limited by the court order~~
16 ~~establishing the long term custodial relationship.~~

17 ~~(41)(42)~~ "Mediation" means a process whereby a neutral
18 third person called a mediator acts to encourage and
19 facilitate the resolution of a dispute between two or more
20 parties. It is an informal and nonadversarial process with
21 the objective of helping the disputing parties reach a
22 mutually acceptable and voluntary agreement. The role of the
23 mediator includes, but is not limited to, assisting the
24 parties in identifying issues, fostering joint problem
25 solving, and exploring settlement alternatives.

26 ~~(42)(43)~~ "Mental injury" means an injury to the
27 intellectual or psychological capacity of a child as evidenced
28 by a discernible and substantial impairment in the ability to
29 function within the normal range of performance and behavior.

30 ~~(43)(44)~~ "Necessary medical treatment" means care
31 which is necessary within a reasonable degree of medical

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1 certainty to prevent the deterioration of a child's condition
2 or to alleviate immediate pain of a child.

3 ~~(44)(45)~~ "Neglect" occurs when a child is deprived of,
4 or is allowed to be deprived of, necessary food, clothing,
5 shelter, or medical treatment or a child is permitted to live
6 in an environment when such deprivation or environment causes
7 the child's physical, mental, or emotional health to be
8 significantly impaired or to be in danger of being
9 significantly impaired. The foregoing circumstances shall not
10 be considered neglect if caused primarily by financial
11 inability unless actual services for relief have been offered
12 to and rejected by such person. A parent or legal custodian
13 legitimately practicing religious beliefs in accordance with a
14 recognized church or religious organization who thereby does
15 not provide specific medical treatment for a child may ~~shall~~
16 not, for that reason alone, be considered a negligent parent
17 or legal custodian; however, such an exception does not
18 preclude a court from ordering the following services to be
19 provided, when the health of the child so requires:

20 (a) Medical services from a licensed physician,
21 dentist, optometrist, podiatric physician, or other qualified
22 health care provider; or

23 (b) Treatment by a duly accredited practitioner who
24 relies solely on spiritual means for healing in accordance
25 with the tenets and practices of a well-recognized church or
26 religious organization.

27

28 Neglect of a child includes acts or omissions.

29 ~~(45)(46)~~ "Next of kin" means an adult relative of a
30 child who is the child's brother, sister, grandparent, aunt,
31 uncle, or first cousin.

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1 ~~(46)(47)~~ "Other person responsible for a child's
2 welfare" includes the child's legal guardian, ~~legal custodian,~~
3 or foster parent; an employee of a private school, public or
4 private child day care center, residential home, institution,
5 facility, or agency; or any other person legally responsible
6 for the child's welfare in a residential setting; and also
7 includes an adult sitter or relative entrusted with a child's
8 care. For the purpose of departmental investigative
9 jurisdiction, this definition does not include law enforcement
10 officers, or employees of municipal or county detention
11 facilities or the Department of Corrections, while acting in
12 an official capacity.

13 ~~(47)(48)~~ "Out-of-home" means a placement outside of
14 the home of the parents or a parent.

15 ~~(48)(49)~~ "Parent" means a woman who gives birth to a
16 child and a man who was married to the mother at the time the
17 child was conceived or born, who has been determined by a
18 court to be the father of the child, who has filed an
19 affidavit of paternity under s. 382.013(2), or who has claimed
20 to be the father of the child and has provided, or has
21 attempted to provide, the child, or the mother during her
22 pregnancy, with support in a repetitive, customary manner
23 ~~whose consent to the adoption of the child would be required~~
24 ~~under s. 63.062(1).~~ If a child has been legally adopted, the
25 term "parent" means the adoptive mother or father of the
26 child. The term does not include an individual whose parental
27 relationship to the child has been legally terminated, or an
28 alleged or prospective parent, unless the parental status
29 falls within the terms of s. 39.503(1) or this subsection ~~s.~~
30 ~~63.062(1).~~ For purposes of this chapter only, when the phrase
31 "parent or legal custodian" is used, it refers to rights or

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1 responsibilities of the parent and, only if there is no living
2 parent with intact parental rights, to the rights or
3 responsibilities of the legal custodian who has assumed the
4 role of the parent.

5 ~~(49)(50)~~ "Participant," for purposes of a shelter
6 proceeding, dependency proceeding, or termination of parental
7 rights proceeding, means any person who is not a party but who
8 should receive notice of hearings involving the child,
9 including foster parents or the legal custodian of the child,
10 identified prospective parents, grandparents entitled to
11 priority for adoption consideration under s. 63.0425, actual
12 custodians of the child, and any other person whose
13 participation may be in the best interest of the child. A
14 community-based agency under contract with the department to
15 provide protective services may be designated as a participant
16 at the discretion of the court. Participants may be granted
17 leave by the court to be heard without the necessity of filing
18 a motion to intervene.

19 ~~(50)(51)~~ "Party" means the parent or parents of the
20 child, the petitioner, the department, the guardian ad litem
21 or the representative of the guardian ad litem program when
22 the program has been appointed, and the child. The presence of
23 the child may be excused by order of the court when presence
24 would not be in the child's best interest. Notice to the child
25 may be excused by order of the court when the age, capacity,
26 or other condition of the child is such that the notice would
27 be meaningless or detrimental to the child.

28 ~~(51)~~ "Permanency goal" means the living arrangement
29 identified for the child to return to or identified as the
30 permanent living arrangement of the child. Permanency goals
31 applicable under this chapter are:

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1 (a) Reunification;

2 (b) Adoption when a petition for termination of
 3 parental rights has been or will be filed;

4 (c) Permanent guardianship of a dependent child under
 5 s. 39.6221;

6 (d) Permanent placement with a fit and willing
 7 relative under s. 39.6231; or

8 (e) Placement in another planned permanent living
 9 arrangement under s. 39.6241.

10

11 The permanency goal is also the case plan goal. If concurrent
 12 case planning is being used, reunification may be pursued at
 13 the same time that another permanency goal is pursued.

14 (52) "Permanency plan" means the plan that establishes
 15 the placement intended to serve as the child's permanent home.

16 (53) "Permanent guardian" means the relative or other
 17 adult in a permanent guardianship of a dependent child under
 18 s. 39.6221.

19 (54) "Permanent guardianship of a dependent child"
 20 means a legal relationship that a court creates under s.
 21 39.6221 between a child and a relative or other adult approved
 22 by the court which is intended to be permanent and
 23 self-sustaining through the transfer of parental rights with
 24 respect to the child relating to protection, education, care
 25 and control of the person, custody of the person, and
 26 decisionmaking on behalf of the child.

27 (55)(52) "Physical injury" means death, permanent or
 28 temporary disfigurement, or impairment of any bodily part.

29 (56)(53) "Physician" means any licensed physician,
 30 dentist, podiatric physician, or optometrist and includes any
 31 intern or resident.

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1 ~~(57)(54)~~ "Preliminary screening" means the gathering
2 of preliminary information to be used in determining a child's
3 need for further evaluation or assessment or for referral for
4 other substance abuse services through means such as
5 psychosocial interviews; urine and breathalyzer screenings;
6 and reviews of available educational, delinquency, and
7 dependency records of the child.

8 ~~(58)(55)~~ "Preventive services" means social services
9 and other supportive and rehabilitative services provided to
10 the parent or legal custodian of the child and to the child
11 for the purpose of averting the removal of the child from the
12 home or disruption of a family which will or could result in
13 the placement of a child in foster care. Social services and
14 other supportive and rehabilitative services shall promote the
15 child's need for physical, mental, and emotional health and a
16 safe, stable, living environment, shall promote family
17 autonomy, and shall strengthen family life, whenever possible.

18 ~~(59)(56)~~ "Prospective parent" means a person who
19 claims to be, or has been identified as, a person who may be a
20 mother or a father of a child.

21 ~~(60)(57)~~ "Protective investigation" means the
22 acceptance of a report alleging child abuse, abandonment, or
23 neglect, as defined in this chapter, by the central abuse
24 hotline or the acceptance of a report of other dependency by
25 the department; the investigation of each report; the
26 determination of whether action by the court is warranted; the
27 determination of the disposition of each report without court
28 or public agency action when appropriate; and the referral of
29 a child to another public or private agency when appropriate.

30 ~~(61)(58)~~ "Protective investigator" means an authorized
31 agent of the department who receives and investigates reports

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of child abuse, abandonment, or neglect; who, as a result of the investigation, may recommend that a dependency petition be filed for the child; and who performs other duties necessary to carry out the required actions of the protective investigation function.

(62)~~(59)~~ "Protective supervision" means a legal status in dependency cases which permits the child to remain safely in his or her own home or other nonlicensed placement under the supervision of an agent of the department and which must be reviewed by the court during the period of supervision.

(63)~~(60)~~ "Relative" means a grandparent, great-grandparent, sibling, first cousin, aunt, uncle, great-aunt, great-uncle, niece, or nephew, whether related by the whole or half blood, by affinity, or by adoption. The term does not include a stepparent.

(64)~~(61)~~ "Reunification services" means social services and other supportive and rehabilitative services provided to the parent of the child, to the child, and, where appropriate, to the relative placement, nonrelative placement, or foster parents of the child, for the purpose of enabling a child who has been placed in out-of-home care to safely return to his or her parent at the earliest possible time. The health and safety of the child shall be the paramount goal of social services and other supportive and rehabilitative services. The ~~Such~~ services shall promote the child's need for physical, mental, and emotional health and a safe, stable, living environment, shall promote family autonomy, and shall strengthen family life, whenever possible.

(65)~~(62)~~ "Secretary" means the Secretary of Children and Family Services.

(66)~~(63)~~ "Sexual abuse of a child" means one or more

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1 of the following acts:

2 (a) Any penetration, however slight, of the vagina or
3 anal opening of one person by the penis of another person,
4 whether or not there is the emission of semen.

5 (b) Any sexual contact between the genitals or anal
6 opening of one person and the mouth or tongue of another
7 person.

8 (c) Any intrusion by one person into the genitals or
9 anal opening of another person, including the use of any
10 object for this purpose, except that this does not include any
11 act intended for a valid medical purpose.

12 (d) The intentional touching of the genitals or
13 intimate parts, including the breasts, genital area, groin,
14 inner thighs, and buttocks, or the clothing covering them, of
15 either the child or the perpetrator, except that this does not
16 include:

17 1. Any act which may reasonably be construed to be a
18 normal caregiver responsibility, any interaction with, or
19 affection for a child; or

20 2. Any act intended for a valid medical purpose.

21 (e) The intentional masturbation of the perpetrator's
22 genitals in the presence of a child.

23 (f) The intentional exposure of the perpetrator's
24 genitals in the presence of a child, or any other sexual act
25 intentionally perpetrated in the presence of a child, if such
26 exposure or sexual act is for the purpose of sexual arousal or
27 gratification, aggression, degradation, or other similar
28 purpose.

29 (g) The sexual exploitation of a child, which includes
30 allowing, encouraging, or forcing a child to:

31 1. Solicit for or engage in prostitution; or

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1 2. Engage in a sexual performance, as defined by
2 chapter 827.

3 ~~(67)(64)~~ "Shelter" means a placement with a relative
4 or a nonrelative, or in a licensed home or facility, for the
5 temporary care of a child who is alleged to be or who has been
6 found to be dependent, pending court disposition before or
7 after adjudication.

8 ~~(68)(65)~~ "Shelter hearing" means a hearing in which
9 the court determines whether probable cause exists to keep a
10 child in shelter status pending further investigation of the
11 case.

12 ~~(69)(66)~~ "Social service agency" means the department,
13 a licensed child-caring agency, or a licensed child-placing
14 agency.

15 ~~(70)(67)~~ "Substance abuse" means using, without
16 medical reason, any psychoactive or mood-altering drug,
17 including alcohol, in such a manner as to induce impairment
18 resulting in dysfunctional social behavior.

19 ~~(71)(68)~~ "Substantial compliance" means that the
20 circumstances which caused the creation of the case plan have
21 been significantly remedied to the extent that the well-being
22 and safety of the child will not be endangered upon the
23 child's remaining with or being returned to the child's
24 parent.

25 ~~(72)(69)~~ "Taken into custody" means the status of a
26 child immediately when temporary physical control over the
27 child is attained by a person authorized by law, pending the
28 child's release or placement.

29 ~~(73)(70)~~ "Temporary legal custody" means the
30 relationship that a ~~juvenile~~ court creates between a child and
31 an adult relative of the child, legal custodian, agency, or

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1 other person approved by the court until a more permanent
2 arrangement is ordered. Temporary legal custody confers upon
3 the custodian the right to have temporary physical custody of
4 the child and the right and duty to protect, nurture, guide
5 ~~train~~, and discipline the child and to provide the child with
6 food, shelter, and education, and ordinary medical, dental,
7 psychiatric, and psychological care, unless these rights and
8 duties are otherwise enlarged or limited by the court order
9 establishing the temporary legal custody relationship.

10 ~~(74)(71)~~ "Victim" means any child who has sustained or
11 is threatened with physical, mental, or emotional injury
12 identified in a report involving child abuse, neglect, or
13 abandonment, or child-on-child sexual abuse.

14 ~~(72) "Long-term licensed custody" means the~~
15 ~~relationship that a juvenile court order creates between a~~
16 ~~child and a placement licensed by the state to provide~~
17 ~~residential care for dependent children, if the licensed~~
18 ~~placement is willing and able to continue to care for the~~
19 ~~child until the child reaches the age of majority.~~

20 Section 2. Section 39.013, Florida Statutes, is
21 amended to read:

22 39.013 Procedures and jurisdiction; right to
23 counsel.--

24 (1) All procedures, including petitions, pleadings,
25 subpoenas, summonses, and hearings, in this chapter shall be
26 conducted according to the Florida Rules of Juvenile Procedure
27 unless otherwise provided by law. Parents must be informed by
28 the court of their right to counsel in dependency proceedings
29 at each stage of the dependency proceedings. Parents who are
30 unable to afford counsel must be appointed counsel.

31 (2) The circuit court ~~has~~ shall have exclusive

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1 original jurisdiction of all proceedings under this chapter,
2 of a child voluntarily placed with a licensed child-caring
3 agency, a licensed child-placing agency, or the department,
4 and of the adoption of children whose parental rights have
5 been terminated under this chapter. Jurisdiction attaches when
6 the initial shelter petition, dependency petition, or
7 termination of parental rights petition is filed or when a
8 child is taken into the custody of the department. The circuit
9 court may assume jurisdiction over any such proceeding
10 regardless of whether the child was in the physical custody of
11 both parents, was in the sole legal or physical custody of
12 only one parent, caregiver, or some other person, or was in
13 the physical or legal custody of no person when the event or
14 condition occurred that brought the child to the attention of
15 the court. When the court obtains jurisdiction of any child
16 who has been found to be dependent, the court shall retain
17 jurisdiction, unless relinquished by its order, until the
18 child reaches 18 years of age. However, if a youth petitions
19 the court at any time before his or her 19th birthday
20 requesting the court's continued jurisdiction, the juvenile
21 court may retain jurisdiction under this chapter for a period
22 not to exceed 1 year following the youth's 18th birthday for
23 the purpose of determining whether appropriate aftercare
24 support, Road-to-Independence Scholarship, transitional
25 support, mental health, and developmental disability services,
26 to the extent otherwise authorized by law, have been provided
27 to the formerly dependent child who was in the legal custody
28 of the department immediately before his or her 18th birthday.
29 If a petition for special immigrant juvenile status and an
30 application for adjustment of status have been filed on behalf
31 of a foster child and the petition and application have not

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1 been granted by the time the child reaches 18 years of age,
2 the court may retain jurisdiction over the dependency case
3 solely for the purpose of allowing the continued consideration
4 of the petition and application by federal authorities. Review
5 hearings for the child shall be set solely for the purpose of
6 determining the status of the petition and application. The
7 court's jurisdiction terminates upon the final decision of the
8 federal authorities. Retention of jurisdiction in this
9 instance does not affect the services available to a young
10 adult under s. 409.1451. The court may not retain jurisdiction
11 of the case after the immigrant child's 22nd birthday.

12 (3) When a child is under the jurisdiction of the
13 circuit court pursuant to ~~the provisions of~~ this chapter, the
14 circuit court assigned to handle dependency matters may
15 exercise the general and equitable jurisdiction over
16 guardianship proceedings under ~~pursuant to the provisions of~~
17 chapter 744 and proceedings for temporary custody of minor
18 children by extended family under ~~pursuant to the provisions~~
19 ~~of~~ chapter 751.

20 (4) Orders entered pursuant to this chapter which
21 affect the placement of, access to, parental time with,
22 adoption of, or parental rights and responsibilities for a
23 minor child shall take precedence over other orders entered in
24 civil actions or proceedings. However, if the court has
25 terminated jurisdiction, the ~~such~~ order may be subsequently
26 modified by a court of competent jurisdiction in any other
27 civil action or proceeding affecting placement of, access to,
28 parental time with, adoption of, or parental rights and
29 responsibilities for the same minor child.

30 (5) The court shall expedite the resolution of the
31 placement issue in cases involving a child who has been

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1 removed from the parent and placed in an out-of-home
2 placement.

3 (6) The court shall expedite the judicial handling of
4 all cases when the child has been removed from the parent and
5 placed in an out-of-home placement.

6 (7) Children removed from their homes shall be
7 provided equal treatment with respect to goals, objectives,
8 services, and case plans, without regard to the location of
9 their placement.

10 (8) For any child who remains in the custody of the
11 department, the court shall, within the month which
12 constitutes the beginning of the 6-month period before the
13 child's 18th birthday, hold a hearing to review the progress
14 of the child while in the custody of the department.

15 (9)(a) At each stage of the proceedings under this
16 chapter, the court shall advise the parents of the right to
17 counsel. The court shall appoint counsel for indigent parents.
18 The court shall ascertain whether the right to counsel is
19 understood. When right to counsel is waived, the court shall
20 determine whether the waiver is knowing and intelligent. The
21 court shall enter its findings in writing with respect to the
22 appointment or waiver of counsel for indigent parents or the
23 waiver of counsel by nonindigent parents.

24 (b) Once counsel has entered an appearance or been
25 appointed by the court to represent the parent of the child,
26 the attorney shall continue to represent the parent throughout
27 the proceedings. If the attorney-client relationship is
28 discontinued, the court shall advise the parent of the right
29 to have new counsel retained or appointed for the remainder of
30 the proceedings.

31 (c)1. A ~~No~~ waiver of counsel may not be accepted if it

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1 appears that the parent is unable to make an intelligent and
2 understanding choice because of mental condition, age,
3 education, experience, the nature or complexity of the case,
4 or other factors.

5 2. A waiver of counsel made in court must be of
6 record.

7 3. If a waiver of counsel is accepted at any hearing
8 or proceeding, the offer of assistance of counsel must be
9 renewed by the court at each subsequent stage of the
10 proceedings at which the parent appears without counsel.

11 (d) This subsection does not apply to any parent who
12 has voluntarily executed a written surrender of the child and
13 consents to the entry of a court order terminating parental
14 rights.

15 ~~(10) The time limitations in this chapter do not~~
16 ~~include:~~

17 ~~(a) Periods of delay resulting from a continuance~~
18 ~~granted at the request or with the consent of the child's~~
19 ~~counsel or the child's guardian ad litem, if one has been~~
20 ~~appointed by the court, or, if the child is of sufficient~~
21 ~~capacity to express reasonable consent, at the request or with~~
22 ~~the consent of the child.~~

23 ~~(b) Periods of delay resulting from a continuance~~
24 ~~granted at the request of any party, if the continuance is~~
25 ~~granted:~~

26 ~~1. Because of an unavailability of evidence material~~
27 ~~to the case when the requesting party has exercised due~~
28 ~~diligence to obtain such evidence and there are substantial~~
29 ~~grounds to believe that such evidence will be available within~~
30 ~~30 days. However, if the requesting party is not prepared to~~
31 ~~proceed within 30 days, any other party, inclusive of the~~

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1 ~~parent or legal custodian, may move for issuance of an order~~
2 ~~to show cause or the court on its own motion may impose~~
3 ~~appropriate sanctions, which may include dismissal of the~~
4 ~~petition.~~

5 ~~2. To allow the requesting party additional time to~~
6 ~~prepare the case and additional time is justified because of~~
7 ~~an exceptional circumstance.~~

8 ~~(c) Reasonable periods of delay necessary to~~
9 ~~accomplish notice of the hearing to the child's parent or~~
10 ~~legal custodian; however, the petitioner shall continue~~
11 ~~regular efforts to provide notice to the parents during such~~
12 ~~periods of delay.~~

13 ~~(d) Reasonable periods of delay resulting from a~~
14 ~~continuance granted at the request of the parent or legal~~
15 ~~custodian of a subject child.~~

16 ~~(e) Notwithstanding the foregoing, continuances and~~
17 ~~extensions of time are limited to the number of days~~
18 ~~absolutely necessary to complete a necessary task in order to~~
19 ~~preserve the rights of a party or the best interests of a~~
20 ~~child. Time is of the essence for the best interests of~~
21 ~~dependent children in conducting dependency proceedings in~~
22 ~~accordance with the time limitations set forth in this~~
23 ~~chapter. Time limitations are a right of the child which may~~
24 ~~not be waived, extended, or continued at the request of any~~
25 ~~party in advance of the particular circumstances or need~~
26 ~~arising upon which delay of the proceedings may be warranted.~~

27 ~~(f) Continuances or extensions of time may not total~~
28 ~~more than 60 days for all parties within any 12-month period~~
29 ~~during proceedings under this chapter. A continuance or~~
30 ~~extension of time beyond the 60 days may be granted only for~~
31 ~~extraordinary circumstances necessary to preserve the~~

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~~constitutional rights of a party or when substantial evidence demonstrates that the child's best interests will be affirmatively harmed without the granting of a continuance or extension of time.~~

~~(10)(11)~~ Court-appointed counsel representing indigent parents at shelter hearings shall be paid from state funds appropriated by general law.

~~(11)(12)~~ The court shall encourage the Statewide Guardian Ad Litem Office to provide greater representation to those children who are within 1 year of transferring out of foster care.

Section 3. Section 39.0136, Florida Statutes, is created to read:

39.0136 Time limitations; continuances.--

(1) The Legislature finds that time is of the essence for establishing permanency for a child in the dependency system. Time limitations are a right of the child which may not be waived, extended, or continued at the request of any party except as provided in this section.

(2) The time limitations in this chapter do not include:

(a) Periods of delay resulting from a continuance granted at the request of the child's counsel or the child's guardian ad litem or, if the child is of sufficient capacity to express reasonable consent, at the request or with the consent of the child. The court must consider the best interests of the child when determining periods of delay under this section.

(b) Periods of delay resulting from a continuance granted at the request of any party if the continuance is granted:

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1 1. Because of an unavailability of evidence that is
2 material to the case if the requesting party has exercised due
3 diligence to obtain evidence and there are substantial grounds
4 to believe that the evidence will be available within 30 days.
5 However, if the requesting party is not prepared to proceed
6 within 30 days, any other party may move for issuance of an
7 order to show cause or the court on its own motion may impose
8 appropriate sanctions, which may include dismissal of the
9 petition.

10 2. To allow the requesting party additional time to
11 prepare the case and additional time is justified because of
12 an exceptional circumstance.

13 (c) Reasonable periods of delay necessary to
14 accomplish notice of the hearing to the child's parent or
15 legal custodian; however, the petitioner shall continue
16 regular efforts to provide notice to the parents during the
17 periods of delay.

18 (3) Notwithstanding subsection (2), in order to
19 expedite permanency for a child, the total time allowed for
20 continuances or extensions of time may not exceed 60 days
21 within any 12-month period for proceedings conducted under
22 this chapter. A continuance or extension of time may be
23 granted only for extraordinary circumstances in which it is
24 necessary to preserve the constitutional rights of a party or
25 if substantial evidence exists to demonstrate that without
26 granting a continuance or extension of time the child's best
27 interests will be harmed.

28 (4) Notwithstanding subsection (2), a continuance or
29 an extension of time is limited to the number of days
30 absolutely necessary to complete a necessary task in order to
31 preserve the rights of a party or the best interests of a

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child.

Section 4. Section 39.0137, Florida Statutes, is created to read:

39.0137 Federal law; rulemaking authority.--

(1) This chapter does not supersede the requirements of the Indian Child Welfare Act, 25 U.S.C. ss. 1901, et seq., or the Multi-Ethnic Placement Act of 1994, Pub. L. No. 103-382, as amended, or the implementing regulations.

(2) The department shall adopt rules no later than July 1, 2007, to ensure that the provisions of these federal laws are enforced in this state. The department is encouraged to enter into agreements with recognized American Indian tribes in order to facilitate the implementation of the Indian Child Welfare Act.

Section 5. Section 39.0138, Florida Statutes, is created to read:

39.0138 Requirements for placement of children; exemptions from disqualification.--

(1)(a) The department may conduct criminal record checks equivalent to the level 2 screening required in s. 435.04 for any person being considered by the department for approval for placement of a child subject to a placement decision under this chapter. Approval for placement with any person other than a parent may not be granted in any case in which a record check reveals a felony conviction in a court of competent jurisdiction for:

1. Child abuse, abandonment, or neglect; spousal abuse; a crime against children, including child pornography, or a crime involving violence, including sexual battery, sexual assault, or homicide, but not including other physical assault or battery, if the felony was committed at any time;

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1 or

2 2. Physical assault, battery, or a drug-related
3 offense if the felony was committed within the past 5 years.

4 (b) Notwithstanding paragraph (a), the department may
5 place a child in a home that otherwise meets placement
6 requirements if state and local criminal record checks do not
7 disqualify the applicant and if the department has submitted
8 fingerprint information to the Department of Law Enforcement
9 for forwarding to the Federal Bureau of Investigation and is
10 awaiting the results of the federal criminal records check.

11 (c) Persons with whom placement of a child is being
12 considered or approved must disclose to the department any
13 prior or pending local, state, or federal criminal proceedings
14 in which they are or have been involved.

15 (d) The results of any background check of a parent
16 conducted under this section must be considered in determining
17 whether placement with the parent will jeopardize the safety
18 of the child being placed.

19 (2) For purposes of this section and ss. 39.401(3) and
20 39.521(1)(d), the department and its authorized agents or
21 contract providers are considered criminal justice agencies
22 for the purpose of accessing criminal justice information,
23 including information from the National Crime Information
24 Center, to be used for enforcing the state's laws concerning
25 the crimes of child abuse, abandonment, and neglect. This
26 information shall be used solely for purposes supporting the
27 detection, apprehension, prosecution, pretrial release,
28 posttrial release, or rehabilitation of criminal offenders or
29 persons accused of the crimes of child abuse, abandonment, or
30 neglect and may not be further disseminated or used for any
31 other purposes.

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1 (3) The department may grant to any person who is
2 otherwise disqualified for approval of placement of a
3 dependent child an exemption from disqualification for:

4 (a) Felonies committed more than 3 years before the
5 date of disqualification;

6 (b) Misdemeanors prohibited under any of the Florida
7 Statutes cited in this chapter or under similar statutes of
8 other jurisdictions;

9 (c) Offenses that were felonies when committed but
10 that are currently misdemeanors;

11 (d) Findings of delinquency; or

12 (e) Commissions of acts of domestic violence as
13 defined in s. 741.30.

14
15 For the purposes of this subsection, the term "felonies" means
16 felonies prohibited under any of the Florida Statutes cited in
17 this chapter or under similar statutes of other jurisdictions.

18 (4) In order for the department to grant an exemption
19 to any person, the person must demonstrate by clear and
20 convincing evidence that the person should not be disqualified
21 for approval of the placement of a dependent child. A person
22 seeking an exemption has the burden of setting forth
23 sufficient evidence of rehabilitation, including, but not
24 limited to, the circumstances surrounding the incident for
25 which an exemption is sought, the time period that has elapsed
26 since the incident, the nature of the harm caused to the
27 victim, and the history of the person since the incident, or
28 any other evidence or circumstances indicating that the person
29 will not present a danger if the placement of a child is
30 allowed.

31 (5) Disqualification from placement of a child under

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subsection (3) may not be removed from, nor may an exemption be granted to, any person who is found guilty of, regardless of adjudication, or who has entered a plea of nolo contendere or guilty to, any felony covered by s. 435.03 solely by reason of any pardon, executive clemency, or restoration of civil rights.

(6) The court may review the decision of the department to grant or deny an exemption upon the motion of any party, the request of any person who has been denied an exemption by the department, or on its own motion. The court shall prepare written findings to support its decision in this matter.

Section 6. Paragraph (a) of subsection (1), paragraph (a) of subsection (2), and subsection (5) of section 39.201, Florida Statutes, are amended to read:

39.201 Mandatory reports of child abuse, abandonment, or neglect; mandatory reports of death; central abuse hotline.--

(1)(a) Any person who knows, or has reasonable cause to suspect, that a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare, as defined in this chapter, or that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care shall report such knowledge or suspicion to the department in the manner prescribed in subsection (2).

(2)(a) Each report of known or suspected child abuse, abandonment, or neglect by a parent, legal custodian, caregiver, or other person responsible for the child's welfare as defined in this chapter, except those solely under s.

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1 827.04(3), and each report that a child is in need of
2 supervision and care and has no parent, legal custodian, or
3 responsible adult relative immediately known and available to
4 provide supervision and care shall be made immediately to the
5 department's central abuse hotline on the single statewide
6 toll-free telephone number. Personnel at the department's
7 central abuse hotline shall determine if the report received
8 meets the statutory definition of child abuse, abandonment, or
9 neglect. Any report meeting one of these definitions shall be
10 accepted for the protective investigation pursuant to part III
11 of this chapter.

12 (5) The department shall be capable of receiving and
13 investigating, 24 hours a day, 7 days a week, reports of known
14 or suspected child abuse, abandonment, or neglect and reports
15 that a child is in need of supervision and care and has no
16 parent, legal custodian, or responsible adult relative
17 immediately known and available to provide supervision and
18 care ~~24 hours a day, 7 days a week~~. If it appears that the
19 immediate safety or well-being of a child is endangered, that
20 the family may flee or the child will be unavailable for
21 purposes of conducting a child protective investigation, or
22 that the facts otherwise so warrant, the department shall
23 commence an investigation immediately, regardless of the time
24 of day or night. In all other child abuse, abandonment, or
25 neglect cases, a child protective investigation shall be
26 commenced within 24 hours after receipt of the report. In an
27 institutional investigation, the alleged perpetrator may be
28 represented by an attorney, at his or her own expense, or
29 accompanied by another person, if the person or the attorney
30 executes an affidavit of understanding with the department and
31 agrees to comply with the confidentiality provisions of s.

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1 39.202. The absence of an attorney or other person does not
2 prevent the department from proceeding with other aspects of
3 the investigation, including interviews with other persons. In
4 institutional child abuse cases when the institution is not
5 operating and the child cannot otherwise be located, the
6 investigation shall commence immediately upon the resumption
7 of operation. If requested by a state attorney or local law
8 enforcement agency, the department shall furnish all
9 investigative reports to that agency.

10 Section 7. Subsections (1), (2), (5), and (22) of
11 section 39.301, Florida Statutes, are amended, and subsection
12 (23) is added to that section, to read:

13 39.301 Initiation of protective investigations.--

14 (1) Upon receiving an oral or written report of known
15 or suspected child abuse, abandonment, or neglect, or that a
16 child is in need of supervision and care and has no parent,
17 legal custodian, or responsible adult relative immediately
18 known and available to provide supervision and care, the
19 central abuse hotline shall determine if the report requires
20 an immediate onsite protective investigation. For reports
21 requiring an immediate onsite protective investigation, the
22 central abuse hotline shall immediately notify the
23 department's designated children and families district staff
24 responsible for protective investigations to ensure that an
25 onsite investigation is promptly initiated. For reports not
26 requiring an immediate onsite protective investigation, the
27 central abuse hotline shall notify the department's designated
28 children and families district staff responsible for
29 protective investigations in sufficient time to allow for an
30 investigation. At the time of notification of district staff
31 with respect to the report, the central abuse hotline shall

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also provide information on any previous report concerning a subject of the present report or any pertinent information relative to the present report or any noted earlier reports.

(2)(a) The department shall immediately forward allegations of criminal conduct to the municipal or county law enforcement agency of the municipality or county in which the alleged conduct has occurred.

(b) As used in this subsection, the term "criminal conduct" means:

1. A child is known or suspected to be the victim of child abuse, as defined in s. 827.03, or of neglect of a child, as defined in s. 827.03.

2. A child is known or suspected to have died as a result of abuse or neglect.

3. A child is known or suspected to be the victim of aggravated child abuse, as defined in s. 827.03.

4. A child is known or suspected to be the victim of sexual battery, as defined in s. 827.071, or of sexual abuse, as defined in s. 39.01.

5. A child is known or suspected to be the victim of institutional child abuse or neglect, as defined in s. 39.01, and as provided for in s. 39.302(1).

6. A child is known or suspected to be a victim of human trafficking, as provided in s. 787.06.

(c) Upon receiving a written report of an allegation of criminal conduct from the department, the law enforcement agency shall review the information in the written report to determine whether a criminal investigation is warranted. If the law enforcement agency accepts the case for criminal investigation, it shall coordinate its investigative activities with the department, whenever feasible. If the law

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1 enforcement agency does not accept the case for criminal
2 investigation, the agency shall notify the department in
3 writing.

4 (d) The local law enforcement agreement required in s.
5 39.306 shall describe the specific local protocols for
6 implementing this section.

7 (5)(a) Upon commencing an investigation under this
8 part, the child protective investigator shall inform any
9 subject of the investigation of the following:

10 1. The names of the investigators and identifying
11 credentials from the department.

12 2. The purpose of the investigation.

13 3. The right to obtain his or her own attorney and
14 ways that the information provided by the subject may be used.

15 4. The possible outcomes and services of the
16 department's response shall be explained to the parent or
17 legal custodian.

18 5. The right of the parent or legal custodian to be
19 involved to the fullest extent possible in determining the
20 nature of the allegation and the nature of any identified
21 problem.

22 6. The duty of the parent or legal custodian to report
23 any change in the residence or location of the child to the
24 investigator and that the duty to report continues until the
25 investigation is closed.

26 (b) The department's training program shall ensure
27 that protective investigators know how to fully inform parents
28 or legal custodians of their rights and options, including
29 opportunities for audio or video recording of investigators'
30 interviews with parents or legal custodians or children.

31 (22) When an investigation is closed and a person is

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1 not identified as a caregiver responsible for the abuse,
2 neglect, or abandonment alleged in the report, the fact that
3 the person is named in some capacity in the report may not be
4 used in any way to adversely affect the interests of that
5 person. This prohibition applies to any use of the information
6 in employment screening, licensing, child placement, adoption,
7 or any other decisions by a private adoption agency or a state
8 agency or its contracted providers, except that a previous
9 report may be used to determine whether a child is safe and
10 what the known risk is to the child at any stage of a
11 child-protection proceeding.

12 (23) If, after having been notified of the requirement
13 to report a change in residence or location of the child to
14 the protective investigator, a parent or legal custodian
15 causes the child to move, or allows the child to be moved, to
16 a different residence or location, or if the child leaves the
17 residence on his or her own accord and the parent or legal
18 custodian does not notify the protective investigator of the
19 move within 2 business days, the child may be considered to be
20 a missing child for the purposes of filing a report with a law
21 enforcement agency under s. 927.021.

22 Section 8. Subsection (2) of section 39.303, Florida
23 Statutes, is amended to read:

24 39.303 Child protection teams; services; eligible
25 cases.--The Children's Medical Services Program in the
26 Department of Health shall develop, maintain, and coordinate
27 the services of one or more multidisciplinary child protection
28 teams in each of the service districts of the Department of
29 Children and Family Services. Such teams may be composed of
30 appropriate representatives of school districts and
31 appropriate health, mental health, social service, legal

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1 service, and law enforcement agencies. The Legislature finds
2 that optimal coordination of child protection teams and sexual
3 abuse treatment programs requires collaboration between the
4 Department of Health and the Department of Children and Family
5 Services. The two departments shall maintain an interagency
6 agreement that establishes protocols for oversight and
7 operations of child protection teams and sexual abuse
8 treatment programs. The Secretary of Health and the Deputy
9 Secretary for Children's Medical Services, in consultation
10 with the Secretary of Children and Family Services, shall
11 maintain the responsibility for the screening, employment,
12 and, if necessary, the termination of child protection team
13 medical directors, at headquarters and in the 15 districts.
14 Child protection team medical directors shall be responsible
15 for oversight of the teams in the districts.

16 (2) The child abuse, abandonment, and neglect reports
17 that must be referred by the department ~~of Children and Family~~
18 ~~Services~~ to child protection teams of the Department of Health
19 for an assessment and other appropriate available support
20 services as set forth in subsection (1) must include cases
21 involving:

22 (a) Injuries to the head, bruises to the neck or head,
23 burns, or fractures in a child of any age.

24 (b) Bruises anywhere on a child 5 years of age or
25 under.

26 (c) Any report alleging sexual abuse of a child ~~in~~
27 ~~which vaginal or anal penetration is alleged or in which other~~
28 ~~unlawful sexual conduct has been determined to have occurred.~~

29 (d) Any sexually transmitted disease in a prepubescent
30 child.

31 (e) Reported malnutrition of a child and failure of a

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1 child to thrive.

2 (f) Reported medical neglect of a child.

3 (g) Any family in which one or more children have been
4 pronounced dead on arrival at a hospital or other health care
5 facility, or have been injured and later died, as a result of
6 suspected abuse, abandonment, or neglect, when any sibling or
7 other child remains in the home.

8 (h) Symptoms of serious emotional problems in a child
9 when emotional or other abuse, abandonment, or neglect is
10 suspected.

11 Section 9. Subsections (10) and (16) of section
12 39.402, Florida Statutes, are amended, and subsections (17)
13 and (18) are added to that section, to read:

14 39.402 Placement in a shelter.--

15 (10)(a) The shelter hearing order shall contain a
16 written determination as to whether the department has made a
17 reasonable effort to prevent or eliminate the need for removal
18 or continued removal of the child from the home. This
19 determination must include a description of which specific
20 services, if available, could prevent or eliminate the need
21 for removal or continued removal from the home and the date by
22 which the services are expected to become available.

23 (b) If services are not available to prevent or
24 eliminate the need for removal or continued removal of the
25 child from the home, the written determination must also
26 contain a explanation describing why the services are not
27 available for the child.

28 (c) If the department has not made ~~such~~ an effort to
29 prevent or eliminate the need for removal, the court shall
30 order the department to provide appropriate and available
31 services to ensure the protection of the child in the home

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when the ~~such~~ services are necessary for the child's health and safety.

(16) At the conclusion of a shelter hearing, the court shall:

(a) Notify all parties in writing of the next scheduled hearing to review the shelter placement. The ~~Such~~ hearing shall be held no later than 30 days after placement of the child in shelter status, in conjunction with the arraignment hearing, and at such times as are otherwise provided by law or determined by the court to be necessary; and ~~and~~.

(b) Notify all parties in writing of the date, time, and place of the case plan conference, family team conference, or mediation that will be used to develop the case plan. The case plan conference, family team conference, or mediation must take place no later than 30 days after placing the child in shelter status.

(17) At the shelter hearing, the court shall inquire of the parent whether the parent has relatives who might be considered as a placement for the child. The parent shall provide to the court and all parties identification and location information regarding the relatives.

(18) The court shall advise the parents that, if the parents fail to substantially comply with the case plan, their parental rights may be terminated and that the child's out-of-home placement may become permanent.

Section 10. Present subsections (7) and (8) of section 39.507, Florida Statutes, are redesignated as subsections (8) and (9), respectively, and a new subsection (7) is added to that section, to read:

39.507 Adjudicatory hearings; orders of

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1 adjudication.--

2 (7) If a court adjudicates a child dependent and the
3 child is in out-of-home care, the court shall inquire of the
4 parent or parents whether the parents have relatives who might
5 be considered as a placement for the child. The court shall
6 advise the parents that, if the child is not returned to their
7 custody within 12 months, their parental rights may be
8 terminated and that the child's out-of-home placement may
9 become permanent. The parent or parents shall provide to the
10 court and all parties identification and location information
11 of the relatives.

12 Section 11. Paragraph (c) of subsection (1) and
13 paragraph (a) of subsection (2) of section 39.5085, Florida
14 Statutes, are amended to read:

15 39.5085 Relative Caregiver Program.--

16 (1) It is the intent of the Legislature in enacting
17 this section to:

18 (c) Recognize that permanency in the best interests of
19 the child can be achieved through a variety of permanency
20 options, including permanent guardianship under s. 39.6221 if
21 the guardian is a relative, by a relative ~~long-term relative~~
22 custody, guardianship under chapter 744, or adoption, by
23 providing additional placement options and incentives that
24 will achieve permanency and stability for many children who
25 are otherwise at risk of foster care placement because of
26 abuse, abandonment, or neglect, but who may successfully be
27 able to be placed by the dependency court in the care of such
28 relatives.

29 (2)(a) The Department of Children and Family Services
30 shall establish and operate the Relative Caregiver Program
31 under ~~pursuant to~~ eligibility guidelines established in this

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section as further implemented by rule of the department. The Relative Caregiver Program shall, within the limits of available funding, provide financial assistance to:

1. Relatives who are within the fifth degree by blood or marriage to the parent or stepparent of a child and who are caring full-time for that dependent child in the role of substitute parent as a result of a court's determination of child abuse, neglect, or abandonment and subsequent placement with the relative under ~~pursuant to~~ this chapter.

2. Relatives who are within the fifth degree by blood or marriage to the parent or stepparent of a child and who are caring full-time for that dependent child, and a dependent half-brother or half-sister of that dependent child, in the role of substitute parent as a result of a court's determination of child abuse, neglect, or abandonment and subsequent placement with the relative under ~~pursuant to~~ this chapter.

The ~~Such~~ placement may be either court-ordered temporary legal custody to the relative under protective supervision of the department under ~~pursuant to~~ s. 39.521(1)(b)3., or court-ordered placement in the home of a relative as a permanency option under s. 39.6221 or s. 39.6231 ~~pursuant to s. 39.622~~. The Relative Caregiver Program shall offer financial assistance to caregivers who are relatives and who would be unable to serve in that capacity without the relative caregiver payment because of financial burden, thus exposing the child to the trauma of placement in a shelter or in foster care.

Section 12. Subsection (1) of section 39.522, Florida Statutes, is amended to read:

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1 39.522 Postdisposition change of custody.--The court
2 may change the temporary legal custody or the conditions of
3 protective supervision at a postdisposition hearing, without
4 the necessity of another adjudicatory hearing.

5 (1) A child who has been placed in the child's own
6 home under the protective supervision of an authorized agent
7 of the department, in the home of a relative, in the home of a
8 legal custodian, or in some other place may be brought before
9 the court by the department or by any other interested person,
10 upon the filing of a petition alleging a need for a change in
11 the conditions of protective supervision or the placement. If
12 the parents or other legal custodians deny the need for a
13 change, the court shall hear all parties in person or by
14 counsel, or both. Upon the admission of a need for a change or
15 after such hearing, the court shall enter an order changing
16 the placement, modifying the conditions of protective
17 supervision, or continuing the conditions of protective
18 supervision as ordered. The standard for changing custody of
19 the child shall be the best interest of the child. When
20 applying this standard, the court shall consider the
21 continuity of the child's placement in the same out-of-home
22 residence as a factor when determining the best interests of
23 the child. If the child is not placed in foster care, then the
24 new placement for the child must meet the home study criteria
25 and court approval pursuant to this chapter.

26 Section 13. Section 39.6011, Florida Statutes, is
27 created to read:

28 39.6011 Case plan development.--

29 (1) The department shall prepare a draft of the case
30 plan for each child receiving services under this chapter. A
31 parent of a child may not be threatened or coerced with the

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1 loss of custody or parental rights for failing to admit in the
2 case plan of abusing, neglecting, or abandoning a child.

3 Participating in the development of a case plan is not an
4 admission to any allegation of abuse, abandonment, or neglect,
5 and it is not a consent to a finding of dependency or
6 termination of parental rights. The case plan shall be
7 developed subject to the following requirements:

8 (a) The case plan must be developed in a face-to-face
9 conference with the parent of the child, any court-appointed
10 guardian ad litem, and, if appropriate, the child and the
11 temporary custodian of the child. The conference to prepare a
12 case plan must be scheduled under s. 39.402(16)(b) and must be
13 conducted according to one of the following procedures:

14 1. A case plan conference that is a meeting among the
15 parties described in this subsection.

16 2. A mediation if dependency mediation services are
17 available and appropriate and in the best interests of the
18 child.

19 3. A family team conference if a family team
20 conference is available.

21 (b) The parent may receive assistance from any person
22 or social service agency in preparing the case plan. The
23 social service agency, the department, and the court, when
24 applicable, shall inform the parent of the right to receive
25 such assistance, including the right to assistance of counsel.

26 (c) If a parent is unwilling or unable to participate
27 in developing a case plan, the department shall document that
28 unwillingness or inability to participate. The documentation
29 must be provided in writing to the parent when available for
30 the court record, and the department shall prepare a case plan
31 conforming as nearly as possible with the requirements set

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1 forth in this section. The unwillingness or inability of the
2 parent to participate in developing a case plan does not
3 preclude the filing of a petition for dependency or for
4 termination of parental rights. The parent, if available, must
5 be provided a copy of the case plan and be advised that he or
6 she may, at any time before the filing of a petition for
7 termination of parental rights, enter into a case plan and
8 that he or she may request judicial review of any provision of
9 the case plan with which he or she disagrees at any court
10 hearing set for the child.

11 (2) The case plan must be written simply and clearly
12 in English and, if English is not the principal language of
13 the child's parent, to the extent possible in the parent's
14 principal language. Each case plan must contain:

15 (a) A description of the identified problem being
16 addressed, including the parent's behavior or acts resulting
17 in risk to the child and the reason for the intervention by
18 the department.

19 (b) The permanency goal as defined in s. 39.01(51).

20 (c) If concurrent planning is being used, a
21 description of the permanency goal of reunification with the
22 parent or legal custodian in addition to a description of one
23 of the remaining permanency goals described in s. 39.01(51).

24 (d) The date the compliance period expires. The case
25 plan must be limited to as short a period as possible for
26 accomplishing its provisions. The plan's compliance period
27 expires no later than 12 months after the date the child was
28 initially removed from the home or the date the case plan was
29 accepted by the court, whichever occurs sooner.

30 (e) A written notice to the parent that failure of the
31 parent to substantially comply with the case plan may result

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1 in the termination of parental rights, and that a material
2 breach of the case plan may result in the filing of a petition
3 for termination of parental rights sooner than the compliance
4 period set forth in the case plan under s. 39.806(2).

5 (3) The case plan must be signed by all parties,
6 except that the signature of a child may be waived if the
7 child is not of an age or capacity to participate in the
8 case-planning process. Signing the case plan constitutes an
9 acknowledgement that the case plan has been developed by the
10 parties and that they are in agreement as to the terms and
11 conditions contained in the case plan. The refusal of a parent
12 to sign the case plan does not prevent the court from
13 accepting the case plan if the case plan is otherwise
14 acceptable to the court. Signing the case plan does not
15 constitute an admission to any allegation of abuse,
16 abandonment, or neglect and does not constitute consent to a
17 finding of dependency or termination of parental rights.
18 Before signing the case plan, the department shall explain the
19 provisions of the plan to all persons involved in its
20 implementation, including, when appropriate, the child.

21 (4) The case plan must describe:

22 (a) The role of the foster parents or legal custodians
23 when developing the services that are to be provided to the
24 child, foster parents, or legal custodians;

25 (b) The minimum number of face-to-face meetings to be
26 held each month between the parents and the department's
27 family services counselors to review the progress of the plan,
28 to eliminate barriers to progress, and to resolve conflicts or
29 disagreements; and

30 (c) The parent's responsibility for financial support
31 of the child, including, but not limited to, health insurance

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1 and child support. The case plan must list the costs
2 associated with any services or treatment that the parent and
3 child are expected to receive which are the financial
4 responsibility of the parent. The determination of child
5 support and other financial support shall be made
6 independently of any determination of indigency under s.
7 39.013.

8 (5) When the permanency goal for a child is adoption,
9 the case plan must include documentation of the steps the
10 agency is taking to find an adoptive family or other permanent
11 living arrangement for the child. At a minimum, the
12 documentation shall include recruitment efforts that are
13 specific to the child, such as the use of state, regional, and
14 national adoption exchanges, including electronic exchange
15 systems.

16 (6) After the case plan has been developed, the
17 department shall adhere to the following procedural
18 requirements:

19 (a) If the parent's substantial compliance with the
20 case plan requires the department to provide services to the
21 parents or the child and the parents agree to begin compliance
22 with the case plan before the case plan's acceptance by the
23 court, the department shall make the appropriate referrals for
24 services that will allow the parents to begin the agreed-upon
25 tasks and services immediately.

26 (b) After the case plan has been agreed upon and
27 signed by the parties, a copy of the plan must be given
28 immediately to the parties, including the child if
29 appropriate, and to other persons as directed by the court.

30 1. A case plan must be prepared, but need not be
31 submitted to the court, for a child who will be in care no

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1 longer than 30 days unless that child is placed in out-of-home
2 care a second time within a 12-month period.

3 2. In each case in which a child has been placed in
4 out-of-home care, a case plan must be prepared within 60 days
5 after the department removes the child from the home and shall
6 be submitted to the court before the disposition hearing for
7 the court to review and approve.

8 3. After jurisdiction attaches, all case plans must be
9 filed with the court and a copy provided to all the parties
10 whose whereabouts are known not less than 3 business days
11 before the disposition hearing. The department shall file with
12 the court, and provide copies to the parties, all case plans
13 prepared before jurisdiction of the court attached.

14 (7) The case plan must be filed with the court and
15 copies provided to all parties, including the child if
16 appropriate, not less than 3 business days before the
17 disposition hearing.

18 Section 14. Section 39.6012, Florida Statutes, is
19 created to read:

20 39.6012 Case plan tasks; services.--

21 (1) The services to be provided to the parent and the
22 tasks that must be completed are subject to the following:

23 (a) The services described in the case plan must be
24 designed to improve the conditions in the home and aid in
25 maintaining the child in the home, facilitate the child's safe
26 return to the home, ensure proper care of the child, or
27 facilitate the child's permanent placement. The services
28 offered must be the least intrusive possible into the life of
29 the parent and child, must focus on clearly defined
30 objectives, and must provide the most efficient path to quick
31 reunification or permanent placement given the circumstances

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of the case and the child's need for safe and proper care.

(b) The case plan must describe each of the tasks with which the parent must comply and the services to be provided to the parent, specifically addressing the identified problem, including:

1. The type of services or treatment.

2. The date the department will provide each service or referral for the service if the service is being provided by the department or its agent.

3. The date by which the parent must complete each task.

4. The frequency of services or treatment provided. The frequency of the delivery of services or treatment provided shall be determined by the professionals providing the services or treatment on a case-by-case basis and adjusted according to their best professional judgment.

5. The location of the delivery of the services.

6. The staff of the department or service provider accountable for the services or treatment.

7. A description of the measurable objectives, including the timeframes specified for achieving the objectives of the case plan and addressing the identified problem.

(2) The case plan must describe the services provided to the child, including:

(a) A description of the identified needs of the child while in care.

(b) A description of the plan for ensuring that the child receives safe and proper care and that services are provided to the child in order to address the child's needs.

To the extent available and accessible, the following health,

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1 mental health, and education information and records of the
2 child must be attached to the case plan and updated throughout
3 the judicial-review process:

4 1. The names and addresses of the child's health,
5 mental health, and educational providers;

6 2. The child's grade-level performance;

7 3. The child's school record;

8 4. Assurances that the child's placement takes into
9 account proximity to the school in which the child is enrolled
10 at the time of placement;

11 5. A record of the child's immunizations;

12 6. The child's known medical history, including any
13 known problems;

14 7. The child's medications, if any; and

15 8. Any other relevant health, mental health, and
16 education information concerning the child.

17 (3) In addition to any other requirement, if the child
18 is in an out-of-home placement, the case plan must include:

19 (a) A description of the type of placement in which
20 the child is to be living.

21 (b) A description of the parent's visitation rights
22 and obligations and the plan for sibling visitation if the
23 child has siblings and is separated from them.

24 (c) When appropriate, for a child who is 13 years of
25 age or older, a written description of the programs and
26 services that will help the child prepare for the transition
27 from foster care to independent living.

28 (d) A discussion of the safety and the appropriateness
29 of the child's placement, which placement is intended to be
30 safe, and the least restrictive and the most family-like
31 setting available consistent with the best interest and

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1 special needs of the child and in as close proximity as
2 possible to the child's home.

3 Section 15. Section 39.6013, Florida Statutes, is
4 created to read:

5 39.6013 Case plan amendments.--

6 (1) After the case plan has been developed under s.
7 39.6011, the tasks and services agreed upon in the plan may
8 not be changed or altered in any way except as provided in
9 this section.

10 (2) The case plan may be amended at any time in order
11 to change the goal of the plan, employ the use of concurrent
12 planning, add or remove tasks the parent must complete to
13 substantially comply with the plan, provide appropriate
14 services for the child, and update the child's health, mental
15 health, and education records required by s. 39.6012.

16 (3) The case plan may be amended upon approval of the
17 court if all parties are in agreement regarding the amendments
18 to the plan and the amended plan is signed by all parties and
19 submitted to the court with a memorandum of explanation.

20 (4) The case plan may be amended by the court or upon
21 motion of any party at any hearing to change the goal of the
22 plan, employ the use of concurrent planning, or add or remove
23 tasks the parent must complete in order to substantially
24 comply with the plan if there is a preponderance of evidence
25 demonstrating the need for the amendment. The need to amend
26 the case plan may be based on information discovered or
27 circumstances arising after the approval of the case plan for:

28 (a) A previously unaddressed condition that, without
29 services, may prevent the child from safely returning to the
30 home or may prevent the child from safely remaining in the
31 home;

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(b) The child's need for permanency, taking into consideration the child's age and developmental needs;

(c) The failure of a party to substantially comply with a task in the original case plan, including the ineffectiveness of a previously offered service; or

(d) An error or oversight in the case plan.

(5) The case plan may be amended by the court or upon motion of any party at any hearing to provide appropriate services to the child if there is competent evidence demonstrating the need for the amendment. The reason for amending the case plan may be based on information discovered or circumstances arising after the approval of the case plan regarding the provision of safe and proper care to the child.

(6) The case plan is deemed amended as to the child's health, mental health, and education records required by s. 39.6012 when the child's updated health and education records are filed by the department under s. 39.701(7)(a).

(7) Amendments must include service interventions that are the least intrusive into the life of the parent and child, must focus on clearly defined objectives, and must provide the most efficient path to quick reunification or permanent placement given the circumstances of the case and the child's need for safe and proper care. A copy of the amended plan must be immediately given to the persons identified in s. 39.601(1).

Section 16. Subsections (1) and (2) of section 39.603, Florida Statutes, are amended to read:

39.603 Court approvals of case planning.--

(1) All case plans and amendments to case plans must be approved by the court. At the hearing on the case plan, which shall occur in conjunction with the disposition hearing

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1 unless otherwise directed by the court, the court shall
2 determine:

3 (a) All parties who were notified and are in
4 attendance at the hearing, either in person or through a legal
5 representative. The court may appoint a guardian ad litem
6 under Rule 1.210, Florida Rules of Civil Procedure, to
7 represent the interests of any parent, if the location of the
8 parent is known but the parent is not present at the hearing
9 and the development of the plan is based upon the physical,
10 emotional, or mental condition or physical location of the
11 parent.

12 (b) If the plan is consistent with previous orders of
13 the court placing the child in care.

14 (c) If the plan is consistent with the requirements
15 for the content of a plan as specified in this chapter.

16 (d) In involuntary placements, whether each parent was
17 notified of the right to counsel at each stage of the
18 dependency proceedings, in accordance with the Florida Rules
19 of Juvenile Procedure.

20 (e) Whether each parent whose location was known was
21 notified of the right to participate in the preparation of a
22 case plan and of the right to receive assistance from any
23 other person in the preparation of the case plan.

24 (f) Whether the plan is meaningful and designed to
25 address facts and circumstances upon which the court based the
26 finding of dependency in involuntary placements or the plan is
27 meaningful and designed to address facts and circumstances
28 upon which the child was placed in out-of-home care
29 voluntarily.

30 (2) When the court determines that any of the elements
31 considered at the hearing related to the plan have not been

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met, the court shall require the parties to make necessary amendments to the plan under s. 39.6013. The amended plan must be submitted to the court for review and approval within 30 days after the hearing. A copy of the amended plan must also be provided to each party, if the location of the party is known, at least 3 business days ~~72 hours~~ before ~~prior to~~ filing with the court.

Section 17. Section 39.621, Florida Statutes, is amended to read:

39.621 Permanency determination by the court.--

(1) Time is of the essence for permanency of children in the dependency system. A permanency hearing must be held no later than 12 months after the date the child was removed from the home or no later than 30 days after a court determines that reasonable efforts to return a child to either parent are not required, whichever occurs first. The purpose of the permanency hearing is to determine when the child will achieve the permanency goal or whether modifying the current goal is in the best interest of the child. A permanency hearing must be held at least every 12 months for any child who continues to receive supervision from the department or awaits adoption.
~~When the court has determined that reunification with either parent is not appropriate, then the court must make a permanency determination for the child.~~

(2) The permanency goals available under this chapter are:

(a) Reunification;

(b) Adoption, if a petition for termination of parental rights has been or will be filed;

(c) Permanent guardianship of a dependent child under s. 39.6221;

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1 (d) Permanent placement with a fit and willing
2 relative under s. 39.6231; or

3 (e) Placement in another planned permanent living
4 arrangement under s. 39.6241.

5 (3)(a) At least 3 business days before the permanency
6 hearing, the department shall file its judicial review social
7 services report with the court and serve copies of the report
8 on all parties. The report must include a recommended
9 permanency goal for the child, suggest changes to the case
10 plan, if needed, and describe why the recommended goal is in
11 the best interest of the child.

12 (b) Before the permanency hearing, the department
13 shall advise the child and the individuals with whom the child
14 will be placed about the availability of more permanent and
15 legally secure placements and what type of financial
16 assistance is associated with each placement.

17 (4) At the permanency hearing, the court shall
18 determine:

19 (a) Whether the current permanency goal for the child
20 is appropriate or should be changed;

21 (b) When the child will achieve one of the permanency
22 goals; and

23 (c) Whether the department has made reasonable efforts
24 to finalize the permanency plan currently in effect.

25 (5) The best interest of the child is the primary
26 consideration in determining the permanency goal for the
27 child. The court must also consider:

28 (a) The reasonable preference of the child if the
29 court has found the child to be of sufficient intelligence,
30 understanding, and experience to express a preference; and

31 (b) Any recommendation of the guardian ad litem.

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1 ~~(6)(2)~~ If a child will not be reunited with a parent,
2 adoption, under ~~pursuant to~~ chapter 63, is the primary
3 permanency option ~~available to the court~~. If the child is
4 placed with a relative or with a relative of the child's
5 half-brother or half-sister as a permanency option, the court
6 ~~may shall~~ recognize the permanency of this placement without
7 requiring the relative to adopt the child.

8
9 If the court approves a permanency goal of permanent
10 guardianship of a dependent child, placement with a fit and
11 willing relative, or another planned permanent living
12 arrangement, the court shall make findings as to why this
13 permanent placement is established without adoption of the
14 child to follow. If the court approves a permanency goal of
15 another planned permanent living arrangement, the court shall
16 document the compelling reasons for choosing this goal.

17 ~~(7)~~ The findings of the court regarding reasonable
18 efforts to finalize the permanency plan must be explicitly
19 documented, made on a case-by-case basis, and stated in the
20 court order.

21 ~~(8)~~ The case plan must list the tasks necessary to
22 finalize the permanency placement and shall be updated at the
23 permanency hearing if necessary. If a concurrent case plan is
24 in place, the court may choose between the permanency goal
25 options presented and shall approve the goal that is in the
26 child's best interest.

27 ~~(9)~~ The permanency placement is intended to continue
28 until the child reaches the age of majority and may not be
29 disturbed absent a finding by the court that the circumstances
30 of the permanency placement are no longer in the best interest
31 of the child. If a parent who has not had his or her parental

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rights terminated makes a motion for reunification or increased contact with the child, the court shall hold a hearing to determine whether the dependency case should be reopened and whether there should be a modification of the order. At the hearing, the parent must demonstrate that the safety, well-being, and physical, mental, and emotional health of the child is not endangered by the modification.

(10) The court shall base its decision concerning any motion by a parent for reunification or increased contact with a child on the effect of the decision on the safety, well-being, and physical and emotional health of the child. Factors that must be considered and addressed in the findings of fact of the order on the motion must include:

(a) The compliance or noncompliance of the parent with the case plan;

(b) The circumstances which caused the child's dependency and whether those circumstances have been resolved;

(c) The stability and longevity of the child's placement;

(d) The preferences of the child, if the child is of sufficient age and understanding to express a preference;

(e) The recommendation of the current custodian; and

(f) The recommendation of the guardian ad litem, if one has been appointed.

~~(3) The permanency options listed in the following paragraphs shall only be considered by the court if adoption is determined by the court to not be in the child's best interest, except as otherwise provided in subsection (2):~~

~~(a) Guardianship pursuant to chapter 744.~~

~~(b) Long-term custody.~~

~~(c) Long-term licensed custody.~~

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1 ~~(d) Independent living.~~

2

3 ~~The permanency placement is intended to continue until the~~
4 ~~child reaches the age of majority and shall not be disturbed~~
5 ~~absent a finding by the court that the circumstances of the~~
6 ~~permanency placement are no longer in the best interest of the~~
7 ~~child.~~

8 Section 18. Section 39.6221, Florida Statutes, is
9 created to read:

10 39.6221 Permanent guardianship of a dependent child.--

11 (1) If a court determines that reunification or
12 adoption is not in the best interest of the child, the court
13 may place the child in a permanent guardianship with a
14 relative or other adult approved by the court if all of the
15 following conditions are met:

16 (a) The child has been in the placement for not less
17 than the preceding 6 months.

18 (b) The permanent guardian is suitable and able to
19 provide a safe and permanent home for the child.

20 (c) The court determines that the child and the
21 relative or other adult are not likely to need supervision or
22 services of the department to ensure the stability of the
23 permanent guardianship.

24 (d) The permanent guardian has made a commitment to
25 provide for the child until the child reaches the age of
26 majority and to prepare the child for adulthood and
27 independence.

28 (e) The permanent guardian agrees to give notice of
29 any change in his or her residential address or the residence
30 of the child by filing a written document in the dependency
31 file of the child with the clerk of the court.

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1 (2) In its written order establishing a permanent
2 guardianship, the court shall:

3 (a) List the circumstances or reasons why the child's
4 parents are not fit to care for the child and why
5 reunification is not possible by referring to specific
6 findings of fact made in its order adjudicating the child
7 dependent or by making separate findings of fact;

8 (b) State the reasons why a permanent guardianship is
9 being established instead of adoption;

10 (c) Specify the frequency and nature of visitation or
11 contact between the child and his or her parents;

12 (d) Specify the frequency and nature of visitation or
13 contact between the child and his or her grandparents, under
14 s. 39.509;

15 (e) Specify the frequency and nature of visitation or
16 contact between the child and his or her siblings;

17 (f) Require that the permanent guardian not return the
18 child to the physical care and custody of the person from whom
19 the child was removed without the approval of the court; and

20 (g) List the powers and duties of the permanent
21 guardian which shall include the rights and duties of a
22 parent, including, but not limited to:

23 1. The right to physical and legal custody of the
24 child;

25 2. The right and duty to protect, nurture, guide, and
26 discipline the child;

27 3. The right and duty to provide the child with food,
28 shelter, and education; and

29 4. The right and duty to provide the child with
30 ordinary medical, dental, psychiatric, and psychological care,
31 unless these rights and duties are otherwise enlarged or

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1 limited by court order.

2 (3) The court shall give the permanent guardian a
 3 separate order establishing the authority of the permanent
 4 guardian to care for the child, reciting what powers and
 5 duties listed in paragraph (2)(g) belong to the permanent
 6 guardian and providing any other information the court deems
 7 proper which can be provided to persons who are not parties to
 8 the proceeding as necessary, notwithstanding the
 9 confidentiality provisions of s. 39.202.

10 (4) A permanent guardianship of a dependent child
 11 established under this chapter is not a plenary guardianship
 12 and is not subject to the requirements of chapter 744.

13 (5) The court shall retain jurisdiction over the case
 14 and the child shall remain in the custody of the permanent
 15 guardian unless the order creating the permanent guardianship
 16 is modified by the court. The court shall discontinue regular
 17 review hearings and relieve the department of the
 18 responsibility for supervising the placement of the child. Not
 19 withstanding the retention of jurisdiction, the placement
 20 shall be considered permanency for the child.

21 (6) Placement of a child in a permanent guardianship
 22 does not terminate the parent-child relationship, including:

23 (a) The right of the child to inherit from his or her
 24 parents;

25 (b) The parents' right to consent to the child's
 26 adoption; and

27 (c) The parents' responsibility to provide financial,
 28 medical, and other support for the child as ordered by the
 29 court.

30 Section 19. Section 39.6231, Florida Statutes, is
 31 created to read:

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1 39.6231 Permanent placement with a fit and willing
2 relative.--

3 (1) If a court finds that reunification or adoption
4 are not in the best interests of a child, the court may place
5 the child with a fit and willing relative as a permanency
6 option if:

7 (a) The child has been in the placement for at least
8 the preceding 6 months;

9 (b) The relative has made a commitment to provide for
10 the child until the child reaches the age of majority and to
11 prepare the child for adulthood and independence;

12 (c) The relative is suitable and able to provide a
13 safe and permanent home for the child; and

14 (d) The relative agrees to give notice of any change
15 in his or her residence or the residence of the child by
16 filing a written document with the clerk of court.

17 (2) The department and the guardian ad litem shall
18 provide the court with a recommended list and description of
19 services needed by the child and the family in order to ensure
20 the permanency of the placement.

21 (3) In its written order placing the child with a fit
22 and willing relative, the court shall:

23 (a) List the circumstances or reasons why
24 reunification is not possible by referring to specific
25 findings of fact made in its order adjudicating the child
26 dependent or by making separate findings of fact;

27 (b) State the reasons why permanent placement with a
28 fit and willing relative is being established instead of
29 adoption;

30 (c) Specify the frequency and nature of visitation or
31 contact between the child and his or her parents;

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1 (d) Specify the frequency and nature of visitation or
2 contact between the child and his or her grandparents, under
3 s. 39.509;

4 (e) Specify the frequency and nature of visitation or
5 contact between the child and his or her siblings; and

6 (f) Require that the relative not return the child to
7 the physical care and custody of the person from whom the
8 child was removed without the approval of the court.

9 (4) The court shall give the relative a separate order
10 establishing his or her authority to care for the child and
11 providing other information the court deems proper which can
12 be provided to entities and individuals who are not parties to
13 the proceeding as necessary, notwithstanding the
14 confidentiality of s. 39.202.

15 (5) The department shall continue to supervise the
16 placement with the relative until further court order. The
17 court shall continue to review the placement at least once
18 every 6 months.

19 (6) Each party to the proceeding must be advised by
20 the department and the court that placement with a fit and
21 willing relative does not preclude the possibility of the
22 child returning to the custody of the parent.

23 (7) The court shall continue to conduct permanency
24 hearings in order to reevaluate the possibility of adoption or
25 permanent guardianship of the child.

26 Section 20. Section 39.6241, Florida Statutes, is
27 created to read:

28 39.6241 Another planned permanent living
29 arrangement.--

30 (1) If a court finds that reunification is not in the
31 best interests of a child, the court may approve placement of

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the child in another planned permanent living arrangement if:

(a) The court finds a more permanent placement, such as adoption, permanent guardianship, or placement with a fit and willing relative, is not in the best interests of the child;

(b) The department documents reasons why the placement will endure and how the proposed arrangement will be more stable and secure than ordinary foster care;

(c) The court finds that the health, safety, and well-being of the child will not be jeopardized by such an arrangement; and

(d) There are compelling reasons to show that another placement is the most appropriate permanency goal. Compelling reasons for another placement may include, but are not limited to:

1. The case of a parent and child who have a significant bond but the parent is unable to care for the child because of an emotional or physical disability and the child's foster parents have committed to raising him or her to the age of majority and to facilitate visitation with the disabled parent;

2. The case of a child for whom an Indian tribe has identified another planned permanent living arrangement for the child; or

3. The case of a foster child who is 16 years of age or older who chooses to remain in foster care and the child's foster parents are willing to care for the child until the child reaches 18 years of age.

(2) The department and the guardian ad litem must provide the court with a recommended list and description of services needed by the child, such as independent living

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services and medical, dental, educational, or psychological referrals, and a recommended list and description of services needed by his or her caregiver.

Section 21. Paragraph (a) of subsection (7), paragraph (g) of subsection (8), and subsection (9) of section 39.701, Florida Statutes, are amended, and paragraph (k) is added to subsection (8) of that section, to read:

39.701 Judicial review.--

(7)(a) Before ~~Prior to~~ every judicial review hearing or citizen review panel hearing, the social service agency shall make an investigation and social study concerning all pertinent details relating to the child and shall furnish to the court or citizen review panel a written report that includes, but is not limited to:

1. A description of the type of placement the child is in at the time of the hearing, including the safety of the child and the continuing necessity for and appropriateness of the placement.

2. Documentation of the diligent efforts made by all parties to the case plan to comply with each applicable provision of the plan.

3. The amount of fees assessed and collected during the period of time being reported.

4. The services provided to the foster family or legal custodian in an effort to address the needs of the child as indicated in the case plan.

5. A statement that either:

a. The parent, though able to do so, did not comply substantially with the ~~provisions of the~~ case plan, and the agency recommendations;

b. The parent did substantially comply with the

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1 ~~provisions of the~~ case plan; or

2 c. The parent has partially complied with the
3 ~~provisions of the~~ case plan, with a summary of additional
4 progress needed and the agency recommendations.

5 6. A statement from the foster parent or legal
6 custodian providing any material evidence concerning the
7 return of the child to the parent or parents.

8 7. A statement concerning the frequency, duration, and
9 results of the parent-child visitation, if any, and the agency
10 recommendations for an expansion or restriction of future
11 visitation.

12 8. The number of times a child has been removed from
13 his or her home and placed elsewhere, the number and types of
14 placements that have occurred, and the reason for the changes
15 in placement.

16 9. The number of times a child's educational placement
17 has been changed, the number and types of educational
18 placements which have occurred, and the reason for any change
19 in placement.

20 10. If the child has reached 13 years of age but is
21 not yet 18 years of age, the results of the preindependent
22 living, life skills, or independent living assessment; the
23 specific services needed; and the status of the delivery of
24 the identified services.

25 11. Copies of all medical, psychological, and
26 educational records that support the terms of the case plan
27 and that have been produced concerning the ~~child~~, parents, or
28 any caregiver since the last judicial review hearing.

29 12. Copies of the child's current health, mental
30 health, and education records as identified in s. 39.6012.

31 (8) The court and any citizen review panel shall take

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1 into consideration the information contained in the social
2 services study and investigation and all medical,
3 psychological, and educational records that support the terms
4 of the case plan; testimony by the social services agency, the
5 parent, the foster parent or legal custodian, the guardian ad
6 litem if one has been appointed for the child, and any other
7 person deemed appropriate; and any relevant and material
8 evidence submitted to the court, including written and oral
9 reports to the extent of their probative value. These reports
10 and evidence may be received by the court in its effort to
11 determine the action to be taken with regard to the child and
12 may be relied upon to the extent of their probative value,
13 even though not competent in an adjudicatory hearing. In its
14 deliberations, the court and any citizen review panel shall
15 seek to determine:

16 (g) Whether the child is receiving safe and proper
17 care according to s. 39.6012, including, but not limited to,
18 the appropriateness of the child's current placement,
19 including whether the child is in a setting that ~~which~~ is as
20 family-like and as close to the parent's home as possible,
21 consistent with the child's best interests and special needs,
22 and including maintaining stability in the child's educational
23 placement.

24 (k) If amendments to the case plan are required.
25 Amendments to the case plan must be made under s. 39.6013.

26 (9)(a) Based upon the criteria set forth in subsection
27 (8) and the recommended order of the citizen review panel, if
28 any, the court shall determine whether or not the social
29 service agency shall initiate proceedings to have a child
30 declared a dependent child, return the child to the parent,
31 continue the child in out-of-home care for a specified period

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1 of time, or initiate termination of parental rights
 2 proceedings for subsequent placement in an adoptive home.
 3 ~~Amendments~~ ~~Modifications~~ to the case plan must be prepared
 4 ~~handled~~ as prescribed in s. 39.6013 ~~s. 39.601~~. If the court
 5 finds that the prevention or reunification efforts of the
 6 department will allow the child to remain safely at home or be
 7 safely returned to the home, the court shall allow the child
 8 to remain in or return to the home after making a specific
 9 finding of fact that the reasons for the creation of the case
 10 plan have been remedied to the extent that the child's safety,
 11 well-being, and physical, mental, and emotional health will
 12 not be endangered.

13 (b) The court shall return the child to the custody of
 14 the parents at any time it determines that they have
 15 substantially complied with the case plan, if the court is
 16 satisfied that reunification will not be detrimental to the
 17 child's safety, well-being, and physical, mental, and
 18 emotional health.

19 (c) If, in the opinion of the court, the social
 20 service agency has not complied with its obligations as
 21 specified in the written case plan, the court may find the
 22 social service agency in contempt, shall order the social
 23 service agency to submit its plans for compliance with the
 24 agreement, and shall require the social service agency to show
 25 why the child could not safely be returned to the home of the
 26 parents.

27 ~~(d) The court may extend the time limitation of the~~
 28 ~~case plan, or may modify the terms of the plan, based upon~~
 29 ~~information provided by the social service agency, and the~~
 30 ~~guardian ad litem, if one has been appointed, the parent or~~
 31 ~~parents, and the foster parents or legal custodian, and any~~

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~~other competent information on record demonstrating the need for the amendment. If the court extends the time limitation of the case plan, the court must make specific findings concerning the frequency of past parent child visitation, if any, and the court may authorize the expansion or restriction of future visitation. Modifications to the plan must be handled as prescribed in s. 39.601. Any extension of a case plan must comply with the time requirements and other requirements specified by this chapter.~~

~~(d)(e)~~ If, at any judicial review, the court finds that the parents have failed to substantially comply with the case plan to the degree that further reunification efforts are without merit and not in the best interest of the child, on its own motion, the court ~~it~~ may order ~~authorize~~ the filing of a petition for termination of parental rights, whether or not the time period as contained in the case plan for substantial compliance has expired ~~elapsed~~.

~~(e)(f)~~ No later than 6 ~~12~~ months after the date that the child was placed in shelter care, the court shall conduct a judicial review hearing to review plan for the child's permanency goal as identified in the case plan. At the hearing the court shall make findings regarding the likelihood of the child's reunification with the parent or legal custodian within 12 months after the removal of the child from the home. If, at this hearing, the court makes a written finding that it is not likely that the child will be reunified with the parent or legal custodian within 12 months after the child was removed from the home, the department must file with the court, and serve on all parties, a motion to amend the case plan under s. 39.6013 and declare that it will use concurrent planning for the case plan. The department must file the

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1 motion no later than 10 business days after receiving the
 2 written finding of the court. The department must attach the
 3 proposed amended case plan to the motion. If concurrent
 4 planning is already being used, the case plan must document
 5 the efforts the department is taking to complete the
 6 concurrent goal. ~~At this hearing, if the child is not returned~~
 7 ~~to the physical custody of the parents, the case plan may be~~
 8 ~~extended with the same goals only if the court finds that the~~
 9 ~~situation of the child is so extraordinary that the plan~~
 10 ~~should be extended. The case plan must document steps the~~
 11 ~~department is taking to find an adoptive parent or other~~
 12 ~~permanent living arrangement for the child.~~

13 ~~(f)(g)~~ The court may issue a protective order in
 14 assistance, or as a condition, of any other order made under
 15 this part. In addition to the requirements included in the
 16 case plan, the protective order may set forth requirements
 17 relating to reasonable conditions of behavior to be observed
 18 for a specified period of time by a person or agency who is
 19 before the court; and the ~~such~~ order may require any ~~such~~
 20 person or agency to make periodic reports to the court
 21 containing such information as the court in its discretion may
 22 prescribe.

23 Section 22. Section 39.703, Florida Statutes, is
 24 amended to read:

25 39.703 Initiation of termination of parental rights
 26 proceedings; judicial review.--

27 (1) If, in preparation for a ~~any~~ judicial review
 28 hearing under this chapter, it is the opinion of the social
 29 service agency that the parents of the child have not complied
 30 with their responsibilities as specified in the written case
 31 plan although able to do so, the department shall state its

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1 intent to initiate proceedings to terminate parental rights,
2 unless the social service agency can demonstrate to the court
3 that such a recommendation would not be in the child's best
4 interests. If it is the intent of the department to initiate
5 proceedings to terminate parental rights, the department shall
6 file a petition for termination of parental rights no later
7 than 3 months after the date of the previous judicial review
8 hearing. If the petition cannot be filed within 3 months, the
9 department shall provide a written report to the court
10 outlining the reasons for delay, the progress made in the
11 termination of parental rights process, and the anticipated
12 date of completion of the process.

13 (2) If, at the time of the 12-month judicial review
14 hearing, a child is not returned to the physical custody of
15 the parents, the department shall file a petition to terminate
16 parental rights or, if a petition to terminate parental rights
17 has been filed by another party, seek to be joined as a party
18 to the petition previously filed. The court shall set an
19 advisory hearing at the judicial review hearing if an advisory
20 hearing has not previously been set. initiate termination of
21 parental rights proceedings under this chapter within 30 days.
22 Only if the court finds that the situation of the child is so
23 extraordinary and that the best interests of the child will be
24 met by such action at the time of the judicial review may the
25 case plan be extended. If the court decides to extend the
26 plan, the court shall enter detailed findings justifying the
27 decision to extend, as well as the length of the extension. A
28 termination of parental rights petition need not be filed if:
29 the child is being cared for by a relative who chooses not to
30 adopt the child but who is willing, able, and suitable to
31 serve as the legal custodian for the child until the child

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1 ~~reaches 18 years of age; the court determines that filing such~~
2 ~~a petition would not be in the best interests of the child; or~~
3 ~~the state has not provided the child's parent, when reasonable~~
4 ~~efforts to return a child are required, consistent with the~~
5 ~~time period in the state's case plan, such services as the~~
6 ~~state deems necessary for the safe return of the child to his~~
7 ~~or her home. Failure to initiate termination of parental~~
8 ~~rights proceedings at the time of the 12-month judicial review~~
9 ~~or within 30 days after such review does not prohibit~~
10 ~~initiating termination of parental rights proceedings at any~~
11 ~~other time.~~

12 (3) Notwithstanding subsection (2), the department may
13 choose not to file or join in a petition to terminate the
14 parental rights of a parent under subsection (2) if:

15 (a) The child is being cared for by a relative under
16 s. 39.6231;

17 (b) The department has documented in the report to the
18 court a compelling reason for determining that filing such a
19 petition would not be in the best interests of the child.
20 Compelling reasons for not filing or joining a petition to
21 terminate parental rights may include, but are not limited to:

22 1. Adoption is not the appropriate permanency goal for
23 the child;

24 2. No grounds to file a petition to terminate parental
25 rights exist;

26 3. The child is an unaccompanied refugee minor as
27 defined in 45 C.F.R. 400.111;

28 4. There are international legal obligations or
29 compelling foreign-policy reasons that would preclude
30 terminating parental rights; or

31 5. The department has not provided to the family,

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consistent with the time period in the case plan, services that the department deems necessary for the safe return of the child to the home.

(4) Upon good cause shown by any party, the court may review the determination by the department that compelling reasons exist for not filing a petition for termination of parental rights.

Section 23. Subsections (1) and (2) of section 39.806, Florida Statutes, are amended to read:

39.806 Grounds for termination of parental rights.--

~~(1) The department, the guardian ad litem, or any person who has knowledge of the facts alleged or who is informed of those facts and believes that they are true may~~
petition Grounds for the termination of parental rights may be established under any of the following circumstances:

(a) When the parent or parents have voluntarily executed a written surrender of the child and consented to the entry of an order giving custody of the child to the department for subsequent adoption and the department is willing to accept custody of the child.

1. The surrender document must be executed before two witnesses and a notary public or other person authorized to take acknowledgments.

2. The surrender and consent may be withdrawn after acceptance by the department only after a finding by the court that the surrender and consent were obtained by fraud or under duress.

(b) Abandonment as defined in s. 39.01(1) or when the identity or location of the parent or parents is unknown and cannot be ascertained by diligent search within 60 days.

(c) When the parent or parents engaged in conduct

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1 toward the child or toward other children that demonstrates
2 that the continuing involvement of the parent or parents in
3 the parent-child relationship threatens the life, safety,
4 well-being, or physical, mental, or emotional health of the
5 child irrespective of the provision of services. Provision of
6 services may be evidenced by proof that services were provided
7 through a previous plan or offered as a case plan from a child
8 welfare agency.

9 (d) When the parent of a child is incarcerated in a
10 state or federal correctional institution and either:

11 1. The period of time for which the parent is expected
12 to be incarcerated will constitute a substantial portion of
13 the period of time before the child will attain the age of 18
14 years;

15 2. The incarcerated parent has been determined by the
16 court to be a violent career criminal as defined in s.
17 775.084, a habitual violent felony offender as defined in s.
18 775.084, or a sexual predator as defined in s. 775.21; has
19 been convicted of first degree or second degree murder in
20 violation of s. 782.04 or a sexual battery that constitutes a
21 capital, life, or first degree felony violation of s. 794.011;
22 or has been convicted of an offense in another jurisdiction
23 which is substantially similar to one of the offenses listed
24 in this paragraph. As used in this section, the term
25 "substantially similar offense" means any offense that is
26 substantially similar in elements and penalties to one of
27 those listed in this subparagraph, and that is in violation of
28 a law of any other jurisdiction, whether that of another
29 state, the District of Columbia, the United States or any
30 possession or territory thereof, or any foreign jurisdiction;
31 or

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1 3. The court determines by clear and convincing
2 evidence that continuing the parental relationship with the
3 incarcerated parent would be harmful to the child and, for
4 this reason, that termination of the parental rights of the
5 incarcerated parent is in the best interest of the child.

6 (e) ~~A petition for termination of parental rights may~~
7 ~~also be filed~~ When a child has been adjudicated dependent, a
8 case plan has been filed with the court, and:

9 1. The child continues to be abused, neglected, or
10 abandoned by the parents. In this case, the failure of the
11 parents to substantially comply for a period of 12 months
12 after an adjudication of the child as a dependent child or the
13 child's placement into shelter care, whichever came first,
14 constitutes evidence of continuing abuse, neglect, or
15 abandonment unless the failure to substantially comply with
16 the case plan was due either to the lack of financial
17 resources of the parents or to the failure of the department
18 to make reasonable efforts to reunify the parent and child.
19 The ~~Such~~ 12-month period begins ~~may begin~~ to run only after
20 the child's placement into shelter care or the entry of a
21 disposition order placing the custody of the child with the
22 department or a person other than the parent and the approval
23 by the court of a case plan with a goal of reunification with
24 the parent, whichever came first; ~~or~~.

25 2. The parent has materially breached the case plan by
26 making it unlikely that he or she will be able to
27 substantially comply with the case plan before the time for
28 compliance expires. Time is of the essence for permanency of
29 children in the dependency system. In order to prove the
30 parent has materially breached the case plan, the court must
31 find by clear and convincing evidence that the parent is

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1 unlikely or unable to substantially comply with the case plan
2 before time expires to comply with the case plan.

3 (f) When the parent or parents engaged in egregious
4 conduct or had the opportunity and capability to prevent and
5 knowingly failed to prevent egregious conduct that threatens
6 the life, safety, or physical, mental, or emotional health of
7 the child or the child's sibling.

8 1. As used in this subsection, the term "sibling"
9 means another child who resides with or is cared for by the
10 parent or parents regardless of whether the child is related
11 legally or by consanguinity.

12 2. As used in this subsection, the term "egregious
13 conduct" means abuse, abandonment, neglect, or any other
14 conduct of the parent or parents that is deplorable, flagrant,
15 or outrageous by a normal standard of conduct. Egregious
16 conduct may include an act or omission that occurred only once
17 but was of such intensity, magnitude, or severity as to
18 endanger the life of the child.

19 (g) When the parent or parents have subjected the
20 child to aggravated child abuse as defined in s. 827.03,
21 sexual battery or sexual abuse as defined in s. 39.01, or
22 chronic abuse.

23 (h) When the parent or parents have committed murder
24 or voluntary manslaughter of another child, or a felony
25 assault that results in serious bodily injury to the child or
26 another child, or aided or abetted, attempted, conspired, or
27 solicited to commit such a murder or voluntary manslaughter or
28 felony assault.

29 (i) When the parental rights of the parent to a
30 sibling have been terminated involuntarily.

31 (2) Reasonable efforts to preserve and reunify

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families are ~~shall~~ not ~~be~~ required if a court of competent jurisdiction has determined that any of the events described in paragraphs (1)(e)-(i) have occurred.

Section 24. Subsection (1) of section 39.810, Florida Statutes, is amended to read:

39.810 Manifest best interests of the child.--In a hearing on a petition for termination of parental rights, the court shall consider the manifest best interests of the child. This consideration shall not include a comparison between the attributes of the parents and those of any persons providing a present or potential placement for the child. For the purpose of determining the manifest best interests of the child, the court shall consider and evaluate all relevant factors, including, but not limited to:

(1) Any suitable permanent custody arrangement with a relative of the child. However, the availability of a nonadoptive placement with a relative may not receive greater consideration than any other factor weighing on the manifest best interest of the child and may not be considered as a factor weighing against termination of parental rights. If a child has been in a stable or preadoptive placement for not less than 6 months, the availability of a different placement, including a placement with a relative, may not be considered as a ground to deny the termination of parental rights.

Section 25. Subsection (4) of section 39.811, Florida Statutes, is amended to read:

39.811 Powers of disposition; order of disposition.--

(4) If the child is neither in the custody of the department nor in the custody of a parent and the court finds that the grounds for termination of parental rights have been established for either or both parents, the court shall enter

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1 an order terminating parental rights for the parent or parents
 2 for whom the grounds for termination have been established and
 3 placing the child with the department or an appropriate legal
 4 custodian. If the parental rights of both parents have been
 5 terminated, or if the parental rights of only one parent have
 6 been terminated and the court makes specific findings based on
 7 evidence presented that placement with the remaining parent is
 8 likely to be harmful to the child, the court may order that
 9 the child be placed with a legal custodian other than the
 10 department after hearing evidence of the suitability of the
 11 ~~such~~ intended placement. Suitability of the intended placement
 12 includes the fitness and capabilities of the proposed legal
 13 custodian to function as the primary caregiver for a
 14 particular child; and the compatibility of the child with the
 15 home in which the child is intended to be placed. If the
 16 court orders that a child be placed with a legal custodian
 17 under this subsection, the court shall appoint a ~~such~~ legal
 18 custodian ~~either~~ as the guardian for the child as provided in
 19 s. 744.3021 or s. 39.621 ~~or as the long-term custodian of the~~
 20 ~~child as provided in s. 39.622 so long as the child has been~~
 21 ~~residing with the legal custodian for a minimum of 6 months.~~
 22 The court may modify the order placing the child in the
 23 custody of the legal custodian and revoke the guardianship
 24 established under s. 744.3021 or another ~~the long-term~~
 25 ~~custodial~~ relationship if the court subsequently finds the
 26 placement to be no longer in the best interest of the child.

27 Section 26. Paragraph (b) of subsection (3) of section
 28 39.0015, Florida Statutes, is amended to read:

29 39.0015 Child abuse prevention training in the
 30 district school system.--

31 (3) DEFINITIONS.--As used in this section:

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1 (b) "Child abuse" means those acts as defined in ss.
2 39.01(1), (2), ~~(32)~~, (42), (44), (55) ~~(30)~~, ~~(43)~~, ~~(45)~~, ~~(52)~~,
3 and ~~(62)~~ ~~(63)~~, 827.04, and 984.03(1), (2), and (37).

4 Section 27. Subsection (5) of section 39.205, Florida
5 Statutes, is amended to read:

6 39.205 Penalties relating to reporting of child abuse,
7 abandonment, or neglect.--

8 (5) If the department or its authorized agent has
9 determined after its investigation that a report is false, the
10 department shall, with the consent of the alleged perpetrator,
11 refer the report to the local law enforcement agency having
12 jurisdiction for an investigation to determine whether
13 sufficient evidence exists to refer the case for prosecution
14 for filing a false report as defined in s. 39.01(28) ~~s.~~
15 ~~39.01(27)~~. During the pendency of the investigation by the
16 local law enforcement agency, the department must notify the
17 local law enforcement agency of, and the local law enforcement
18 agency must respond to, all subsequent reports concerning
19 children in that same family in accordance with s. 39.301. If
20 the law enforcement agency believes that there are indicators
21 of abuse, abandonment, or neglect, it must immediately notify
22 the department, which must assure the safety of the children.
23 If the law enforcement agency finds sufficient evidence for
24 prosecution for filing a false report, it must refer the case
25 to the appropriate state attorney for prosecution.

26 Section 28. Subsection (1) of section 39.302, Florida
27 Statutes, is amended to read:

28 39.302 Protective investigations of institutional
29 child abuse, abandonment, or neglect.--

30 (1) The department shall conduct a child protective
31 investigation of each report of institutional child abuse,

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1 abandonment, or neglect. Upon receipt of a report that
2 alleges that an employee or agent of the department, or any
3 other entity or person covered by s. 39.01(33) or (46) ~~s.~~
4 ~~39.01(31) or (47)~~, acting in an official capacity, has
5 committed an act of child abuse, abandonment, or neglect, the
6 department shall initiate a child protective investigation
7 within the timeframe established by the central abuse hotline
8 under ~~pursuant to~~ s. 39.201(5) and orally notify the
9 appropriate state attorney, law enforcement agency, and
10 licensing agency. These agencies shall immediately conduct a
11 joint investigation, unless independent investigations are
12 more feasible. When conducting investigations onsite or having
13 face-to-face interviews with the child, such investigation
14 visits shall be unannounced unless it is determined by the
15 department or its agent that the ~~such~~ unannounced visits would
16 threaten the safety of the child. When a facility is exempt
17 from licensing, the department shall inform the owner or
18 operator of the facility of the report. Each agency
19 conducting a joint investigation is ~~shall be~~ entitled to full
20 access to the information gathered by the department in the
21 course of the investigation. A protective investigation must
22 include an onsite visit of the child's place of residence. In
23 all cases, the department shall make a full written report to
24 the state attorney within 3 working days after making the oral
25 report. A criminal investigation shall be coordinated,
26 whenever possible, with the child protective investigation of
27 the department. Any interested person who has information
28 regarding the offenses described in this subsection may
29 forward a statement to the state attorney as to whether
30 prosecution is warranted and appropriate. Within 15 days after
31 the completion of the investigation, the state attorney shall

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1 report the findings to the department and shall include in the
2 ~~such~~ report a determination of whether or not prosecution is
3 justified and appropriate in view of the circumstances of the
4 specific case.

5 Section 29. For the purpose of incorporating the
6 amendments made by this act to section 39.806, Florida
7 Statutes, in a reference thereto, subsection (5) of section
8 39.802, Florida Statutes, is reenacted to read:

9 39.802 Petition for termination of parental rights;
10 filing; elements.--

11 (5) When a petition for termination of parental rights
12 is filed under s. 39.806(1), a separate petition for
13 dependency need not be filed and the department need not offer
14 the parents a case plan with a goal of reunification, but may
15 instead file with the court a case plan with a goal of
16 termination of parental rights to allow continuation of
17 services until the termination is granted or until further
18 orders of the court are issued.

19 Section 30. Subsection (1) of section 39.828, Florida
20 Statutes, is amended to read:

21 39.828 Grounds for appointment of a guardian
22 advocate.--

23 (1) The court shall appoint the person named in the
24 petition as a guardian advocate with all the powers and duties
25 specified in s. 39.829 for an initial term of 1 year upon a
26 finding that:

27 (a) The child named in the petition is or was a drug
28 dependent newborn as described in s. 39.01(32)(g) ~~s.~~
29 ~~39.01(30)(g)~~;

30 (b) The parent or parents of the child have
31 voluntarily relinquished temporary custody of the child to a

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1 relative or other responsible adult;

2 (c) The person named in the petition to be appointed
3 the guardian advocate is capable of carrying out the duties as
4 provided in s. 39.829; and

5 (d) A petition to adjudicate the child dependent under
6 ~~pursuant to~~ this chapter has not been filed.

7 Section 31. Subsection (3) of section 63.092, Florida
8 Statutes, is amended to read:

9 63.092 Report to the court of intended placement by an
10 adoption entity; at-risk placement; preliminary study.--

11 (3) PRELIMINARY HOME STUDY.--Before placing the minor
12 in the intended adoptive home, a preliminary home study must
13 be performed by a licensed child-placing agency, a
14 child-caring agency registered under s. 409.176, a licensed
15 professional, or agency described in s. 61.20(2), unless the
16 adoptee is an adult or the petitioner is a stepparent or a
17 relative. If the adoptee is an adult or the petitioner is a
18 stepparent or a relative, a preliminary home study may be
19 required by the court for good cause shown. The department is
20 required to perform the preliminary home study only if there
21 is no licensed child-placing agency, child-caring agency
22 registered under s. 409.176, licensed professional, or agency
23 described in s. 61.20(2), in the county where the prospective
24 adoptive parents reside. The preliminary home study must be
25 made to determine the suitability of the intended adoptive
26 parents and may be completed prior to identification of a
27 prospective adoptive minor. A favorable preliminary home study
28 is valid for 1 year after the date of its completion. Upon its
29 completion, a copy of the home study must be provided to the
30 intended adoptive parents who were the subject of the home
31 study. A minor may not be placed in an intended adoptive home

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1 before a favorable preliminary home study is completed unless
2 the adoptive home is also a licensed foster home under s.
3 409.175. The preliminary home study must include, at a
4 minimum:

5 (a) An interview with the intended adoptive parents;

6 (b) Records checks of the department's central abuse
7 registry and criminal records correspondence checks under s.
8 39.0138 ~~pursuant to s. 435.045~~ through the Department of Law
9 Enforcement on the intended adoptive parents;

10 (c) An assessment of the physical environment of the
11 home;

12 (d) A determination of the financial security of the
13 intended adoptive parents;

14 (e) Documentation of counseling and education of the
15 intended adoptive parents on adoptive parenting;

16 (f) Documentation that information on adoption and the
17 adoption process has been provided to the intended adoptive
18 parents;

19 (g) Documentation that information on support services
20 available in the community has been provided to the intended
21 adoptive parents; and

22 (h) A copy of each signed acknowledgment of receipt of
23 disclosure required by s. 63.085.

24
25 If the preliminary home study is favorable, a minor may be
26 placed in the home pending entry of the judgment of adoption.
27 A minor may not be placed in the home if the preliminary home
28 study is unfavorable. If the preliminary home study is
29 unfavorable, the adoption entity may, within 20 days after
30 receipt of a copy of the written recommendation, petition the
31 court to determine the suitability of the intended adoptive

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1 home. A determination as to suitability under this subsection
2 does not act as a presumption of suitability at the final
3 hearing. In determining the suitability of the intended
4 adoptive home, the court must consider the totality of the
5 circumstances in the home. No minor may be placed in a home in
6 which there resides any person determined by the court to be a
7 sexual predator as defined in s. 775.21 or to have been
8 convicted of an offense listed in s. 63.089(4)(b)2.

9 Section 32. Paragraph (d) of subsection (1) of section
10 419.001, Florida Statutes, is amended to read:

11 419.001 Site selection of community residential
12 homes.--

13 (1) For the purposes of this section, the following
14 definitions shall apply:

15 (d) "Resident" means any of the following: a frail
16 elder as defined in s. 400.618; a physically disabled or
17 handicapped person as defined in s. 760.22(7)(a); a
18 developmentally disabled person as defined in s. 393.063; a
19 nondangerous mentally ill person as defined in s. 394.455(18);
20 or a child who is found to be dependent or a child in need of
21 services as defined in s. 39.01(14), s. 984.03(9) or (12), or
22 s. 985.03(8).

23 Section 33. Sections 39.601, 39.622, 39.623, 39.624,
24 and 435.045, Florida Statutes, are repealed.

25 Section 34. This act shall take effect July 1, 2006.